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Brief of Case

Filed Oct 30, 1899.

In the Supreme Court of the United States.

October Term, 1899.

THE SPEARING LUMBER COMPANY, Claimant, Quevedo, Claimant, appellant,
v.
THE UNITED STATES.
No. 120.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

BRIEF FOR THE UNITED STATES AND THE APPELLEE.

In the Supreme Court of the United States.

OCTOBER TERM, 1899.

THE STEAMSHIP PANAMA, MANUEL Quevedo, claimant, appellant, *v.* THE UNITED STATES. } No. 127.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

BRIEF FOR THE UNITED STATES AND THE CAPTORS.

In this prize cause the libel (Rec., p. 1), claim, and test affidavit (pp. 4–7) and the depositions *in preparatorio* of the master (pp. 29–33), supercargo (pp. 22–25), and chief engineer (pp. 26–29) show without dispute that the *Panama* was a Spanish merchant vessel of about 1,400 tons, manned by a crew numbering 71, including the captain, all Spaniards, owned by the Spanish corporation, the Compañía Transatlántica, of Barcelona, Spain, sailing under the Spanish flag and royal patent, and for a num-

ber of years had been engaged in carrying passengers, cargoes, and mails between ports of the United States, Cuba, Mexico, and South America on regular voyages, which usually began either at Havana, and thence proceeding to New York, terminated at Vera Cruz or Progreso, Mexico (p. 23), or began at New York and ended, by way of Havana, at Vera Cruz (p. 30); that the vessel carried certain mounted guns and small arms for her own defense under a marine mail-service contract with the Spanish Government, by which, in case of war, that Government was entitled to take over for naval-reserve purposes this and other vessels of the company upon an appraised valuation; that she sailed from New York for Havana about 2 o'clock on April 20, 1898, having taken on board there a general cargo, the production and manufacture of the United States, to be delivered at Havana, Progreso, and Vera Cruz at the risk of the shippers (pp. 23, 31), and consigned to residents and presumptive citizens of Mexico or to parties in Havana (opinion of the court, p. 42), and that she was captured about 25 miles from the Morro of Havana at 6 o'clock or thereabouts on the afternoon of April 25 by the United States steamship *Mangrove*, the *Indiana* and the *Wilmington* being in sight at the time (p. 22). There were 29 passengers on board, mostly destined for Havana, and all Spaniards but one, but there were no officers, soldiers, or sailors in the military or naval service of the enemy on board.

There was perhaps no real question in the case as to blockade, spoliation of papers, or contraband. On the

latter subject, however, the only passenger examined, (p. 34), a Spanish subject, records a report among the passengers that the cargo contained arms and ammunition, which had been thrown overboard before the capture. This witness says that on the night of April 24, by the captain's orders, all lights, including the side lights, were put out, and that during the voyage a man was stationed in the topmast with a glass, who reported to the captain every vessel arriving in sight.

The vessel was taken to Key West for adjudication, and after due proceedings the court condemned her as lawful prize (p. 9) upon the ground that she was enemy property and captured upon the high seas after the commencement of a state of war. The decree restored to the claimants part of the cargo, title to which had not passed from citizens of the United States or from neutral ownership; as to other parts of the cargo, concerning which the question of ownership was not clear, allowed time for further proof (pp. 9, 10). The portions of cargo not ultimately restored on further proof clearly will follow the fate of the vessel. (The *Miguel Jover* and *Catalina*, 87 Fed. Rep., 927, 932.) Subsequently, the vessel and such portions of the cargo as were not restored, or as to which adjudication was not suspended for further proof, were under the statute transferred to the New York district for sale (p. 14), with the result (not appearing in the record) that the vessel sold for $41,000, and the cargo, so far as condemned, for $14,523.12. The case is now before the court on appeal by the claimants.

ARGUMENT.

The question is purely one of enemy property and the exemption asserted to be conferred by the President's proclamation of April 26, 1898, the text of which is as follows:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas by an act of Congress approved April 25, 1898, it is declared that war exists, and that war has existed since the 21st day of April, A. D. 1898, including said day, between the United States of America and the Kingdom of Spain; and

Whereas, it being desirable that such war should be conducted upon principles in harmony with the present views of nations and sanctioned by their recent practice, it has already been announced that the policy of this Government will be not to resort to privateering, but to adhere to the rules of the Declaration of Paris;

Now, therefore, I, William McKinley, President of the United States of America, by virtue of the power vested in me by the Constitution and the laws, do hereby declare and proclaim:

1. The neutral flag covers enemy's goods, with the exception of contraband of war.

2. Neutral goods, not contraband of war, are not liable to confiscation under the enemy's flag.

3. Blockades in order to be binding must be effective.

4. Spanish merchant vessels, in any ports or places within the United States, shall be allowed till May 21, 1898, inclusive, for loading their cargoes and de-

parting from such ports or places; and such Spanish merchant vessels, if met at sea by any United States ship, shall be permitted to continue their voyage, if, on examination of their papers, it shall appear that their cargoes were taken on board before the expiration of the above term: Provided, that nothing herein contained shall apply to Spanish vessels having on board any officer in the military or naval service of the enemy, or any coal (except such as may be necessary for their voyage), or any other article prohibited or contraband of war, or any despatch of or to the Spanish Government.

5. Any Spanish merchant vessel which, prior to April 21, 1898, shall have sailed from any foreign port bound for any port or place in the United States, shall be permitted to enter such port or place, and to discharge her cargo, and afterward forthwith to depart without molestation; and any such vessel, if met at sea by any United States ship, shall be permitted to continue her voyage to any port not blockaded.

6. The right of search is to be exercised with strict regard for the rights of neutrals, and the voyages of mail steamers are not to be interfered with except on the clearest grounds of suspicion of a violation of law in respect of contraband or blockade.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, on the twenty-sixth day of April, in the year of our Lord [SEAL.] one thousand eight hundred and ninety-eight, and of the Independence of the United States the one hundred and twenty-second.

WILLIAM MCKINLEY.

By the President:

ALVEY A. ADEE,

Acting Secretary of State.

The argument on behalf of claimants is that, since there was no formal proclamation or declaration of war before the *Panama* had sailed, or because she had left the United States at so recent a date relative to her seizure, she should, under an equitable view of the proclamation or on what is supposed to be the unexpressed intention, be considered as exempted from the liability of all enemy's property to capture. This is in reality a request to the court to find, in the supposed inherent equities of the case and the hardship of the legal rule, valid reasons for reversing the decree below; reasons which (if they exist) might be addressed to executive grace before libel filed or perhaps (though not hopefully) at any later stage before condemnation, but which should not, we confidently maintain, receive the sanction of the court.

It is not necessary to detain the court with a discussion of the foundations of prize law, the principles of which have been clearly established and the boundaries accurately defined by the great English authorities and in the learned judgments of this court. It springs from the rights of belligerents, and while "on the one hand the growth of commerce and civilization have a uniform tendency to render less tolerable the extreme exercise of what are called belligerent rights, and gradually to introduce modifications, * * * on the other hand the material changes of modern times, such as the adoption of steam navigation, * * * the employment of railways, electric telegraphs, etc., * * * require a corresponding increase of vigilance on the part of belligerents on the high seas, and inevitably give rise to the claim by them of new

rights." (Lushington's Naval Prize Law, Introduction, pp. ix, x.)

Dr. Lushington in this passage states in a note, as an illustration of the softening process of civilization, that in the Austro-Italian war of 1866, for the first time in naval warfare, merchant vessels of the enemy were spared on both sides, but that this moderation was secured by special agreement between the two belligerents under which, and the rules of the Treaty of Paris, private property of the enemy at sea was as completely exempt from hostile capture as private property on land. The claim for moderation is more particularly urged in law (however it may be in diplomacy and morals) in favor of neutral rights rather than of a new and more liberal attitude to the enemy; and it is the gist of the subject (which is a harsh one) that belligerent rights are to be strictly and even rigorously enforced; and the primary rule without exception, unless specially provided (as by proclamation or a licensing cartel), is that enemy property afloat on the high seas at the time the beginning of a state of war is fixed is valid prize. For this no citation of authorities is requisite, but the following statements are approved by the high authority from which they proceed: "When two powers are at war, they have a right to make prizes of ships, goods, and effects of each other upon the high seas. Whatever is the property of the enemy may be acquired by capture at sea * * *." (Letter from Sir William Scott and Sir John Nicholl to Mr. Jay; Pratt's ed. Justice Story's Notes on the Principles and Practice of Prize Courts, p. 3.) "Nor can an enemy interpose a claim, unless under the protection of

a flag of truce, a cartel, license, pass, treaty, or some other act of the public authority suspending his hostile character." (Ib., p. 21.) The commerce of the enemy has in all ages been regarded as the legitimate prize of war, and the statement of the King's advocate, "There is no such thing as a war for arms and a peace for commerce," is accepted as proper and necessary. (*Potts* v. *Bell*, 8 Term Rep., 548.) Beside the just rights of reprisal and aggrandizement, one reason for the rule has an ethical result, at least, for it tends to end the war more quickly.

Now, to illustrate how far in practice the more humane notions of modern times have affected the persons and property of the enemy, it may be stated that the court has ruled that war gives the sovereign the right to take the persons and confiscate the property of the enemy wherever found, on land as well as at sea, and that the mitigation of the rigid rule might more or less affect the exercise of the right, but could not impair the right itself. (*Brown* v. *United States*, 8 Cranch, 110; 1 Kent Com., 59.) Capture of enemy property on the high seas has not been mitigated in practice, and the diplomatic policy and historic attitude of the United States in favor of the exemption of all private property at sea can not affect the determination of the law as it is, nor can the abolition by a recent act of Congress of prize money to naval captors affect it as showing a similar tendency. The English and American relaxations by executive act, as indicated *ante*, mostly concern neutrals. (Declaration of the Queen, of March 28, 1854; Story's Notes, etc., p. 148; the President's Proclamation, *supra*.)

To sustain, therefore, a claim on behalf of enemy property, a clear, definite, and express exemption must be shown, and that does not exist here. The contrary view is sought to be interpreted into the proclamation. Vattel, who may be appropriately cited on a question on the law of nations, says tersely: "It is not allowable to interpret what has no need of interpretation." (Lib. 2, c. 17, sec. 262.) The words in their natural signification, if free from ambiguity and doubt, declare the meaning of an instrument and the thought which it expresses, and courts have not the right to add to or take away from that meaning. This is, of course, elementary, and is clearly stated in *Thornley* v. *United States* (113 U. S., 310); *Lake Co. Commrs.* v. *Rollins* (130 U. S., 662); *Newell* v. *People* (3 Seld. (N. Y.), 97). Indeed, the claim based upon the proclamation is most general and even vague in its nature, for it can not be fortified from the proclamation even by inference or fair intendment.

It is now necessary to consider the facts and keep in mind the respective dates in connection with the language of article 4 of the proclamation.

The *Panama* sailed from New York about 2 p. m. on April 20, 1898; on April 22 the President, by proclamation, declared Havana and certain ports and portions of the north coast of Cuba to be under blockade; on April 25 Congress declared war, and retroactively fixed the date of its beginning on April 21. On the same date, that is on April 25, about 6 p. m., the *Panama* was captured on the high seas, and on April 26 the proclamation above set out was signed and promulgated. The language of article 4 of the proclamation is: "Spanish merchant

vessels in any ports or places within the United States shall be allowed until May 21, 1898, inclusive, for loading their cargoes and departing from such ports or places; and such Spanish merchant vessels, if met at sea by any United States ship, shall be permitted to continue their voyage if upon examination of their papers it shall appear that their cargoes were taken on board before the expiration of the above term." * * * This obviously means that "such vessels" should be those which had not left the United States when war began, and were not, after it began, taken on the high seas. From all this it is very clear that a Spanish vessel proceeding from a harbor of the United States before April 26, or at the very most before April 21, and captured on the high seas, is not exempt by the proclamation and became good prize.

By modern practice war may begin and "may lawfully exist without a declaration on either side. It is so laid down by the best writers on the law of nations." (Lord Stowell in *The Eliza Ann*, 1 Dod., 247.)

Modern treaty stipulations among European nations provide that a rupture of pacific relations takes place at the date of the recall or dismissal of ambassadors. (De Marten's Supp., VII, 213 and *passim*.)

Certain Government acts of an unjust and hostile character have been regarded as equivalent to a declaration of war and the subsequent formal declaration as ratifying and confirming acts done in consequence of the state of war in fact. (*The Herstelder*, 1 Rob., 114; *The Boedes Lust*, 5 Rob., 246.)

In the United States it is one of the constitutional functions of Congress to declare war, and the Spanish

war was duly declared by the act referred to. The act is in terms retroactive and there can be no doubt of its validity as such. Whether the proclamation also has a retroactive effect, and granting on April 26 until May 21 the right of enemy vessels in our ports at the outbreak of the war to take on cargo and proceed without molestation implies necessarily that the five days between April 21 and April 26 are included in the exemption to make up the normal period of thirty days from April 21 to May 21, is another question. That was not expressed; while in the British order in council in the Crimean war the time was made definite, for the language is that "Russian merchant vessels in any ports or places within Her Majesty's dominion shall be allowed until the 10th day of May next, six weeks from *the date hereof*, for loading their cargoes and departing." But the Government contended unsuccessfully in reference to other vessels in the court below that the date of the proclamation fixed the beginning of the period of exemption, the court, on the other hand, considering that the President did not intend to change the thirty days of grace given to neutral vessels in the blockade proclamation of April 22 to twenty-five days in this proclamation, and holding, therefore, that the proclamation was so far retroactive, in which view the Government acquiesced and agreed to the dismissal of the appeals taken in the said cases.

There is a precedent for holding the date of the proclamation to be controlling in the British Order in Council of March 29, 1854 (*The Phœnix*, Spink's Prize Cases, 1), which is authority on the modern practice

and on the strict construction of the exempting language of a proclamation. The similar Spanish declaration was dated April 24, so that by construing the President's proclamation to date from April 21, we gave to Spanish vessels a privilege not reciprocated. (1 Kent, p. 58.) Another reason for leaning to the construction of this provision against the vessels affected, rather than in favor of them, was that to permit them to proceed, although not within the express terms of the proclamation, war existing when they were captured, was a violation of the rule against trading with the enemy. (1 Kent, p. 66; *The Rapid*, 8 Cr., 153.)

This case, however, is much stronger than the appeals in question, which were dismissed. The utmost precedent date to which the proclamation could relate was April 21, and the *Panama* left port on April 20. This is conclusive of the question. Outside the field of law this period of one day may be regarded as a narrow basis on which to rest the distinction, and the result might be considered technical and harsh, but prize law lies within narrow confines, and necessarily from the nature of the subject and the exigencies of belligerent rights is extremely technical and essentially rigorous. Besides, the rule of not allowing a concession or exemption unless within the express terms of the instrument is a general rule of all law; and, further, the question arises, How far shall you be permitted to go back? If one day, why not two or ten? Ignorance of the state of war, even if had existed, could not excuse the vessel. In England very ancient crown grants for the benefit of

the lord high admiral made prize of all captures of all ships and goods coming or already come into the ports or roads of England and Ireland by stress of weather or other accident, or by mistake of port, *or by ignorance, not knowing of the war.* (Story's Notes, etc., p. 118.)

Now, as a matter of fact, the breach of friendly relations with Spain (our minister to Spain and the Spanish minister at this capital were recalled on April 21, 1898), the hostile condition in fact, and the imminence of war were well known to the owners and master of this vessel, and they also knew that by modern practice they were most probably safe in port and would eventually be protected by just such a proclamation as was issued on April 26. They chose to take the risks and make the venture, and that they did so is shown by the conduct of the vessel on her voyage and as she approached the Cuban coast, testified to by the only passenger brought before the prize commissioners.

Again, the relation of the vessel to the Spanish Government is an important element in the case. Such an auxiliary cruiser (*in posse*) would be much more properly subject to the rigors of prize law in a really doubtful case than a merchant vessel pure and simple. Can it be doubted that, if the *Panama* had been successful in eluding the *Mangrove* and our other vessels of war, she would have reappeared upon the seas in the Spanish national service? In a case before Lord Stowell, where it appeared that the vessel had been engaged in the military service of the enemy under appointment of the minister of marine, it was held as sufficient proof of its

setting forth as a vessel of war. (*The Santa Brigada*, 3 Rob., 56; *The Ceylon*, 1 Dod., 105.) The circumstances here undoubtedly suggest an approach to this state of facts, and an intention to enter the Spanish service and use the Hontoria armament in accordance with the terms of the company's contract with the Crown.

Finally, as to insurance, one point remains to be considered. It appears that the real parties in interest as to the vessel are neutral insurers (Rec., p. 7); but if they took a war risk they will properly respond to the owner's loss, and if they did not take such risk, either by express language or by necessary construction of law, they are not liable and the burden remains upon the enemy owner where it properly belongs.

We therefore conclude, and respectfully submit that the decree of the prize court condemning the vessel should be affirmed.

HENRY M. HOYT,
Assistant Attorney-General
For the United States.

JOSEPH K. MCCAMMON,
JAMES H. HAYDEN,
Of Counsel for the Captors.

No. 127.

Supreme Court of the United States.

No. 127.—October Term, 1899.

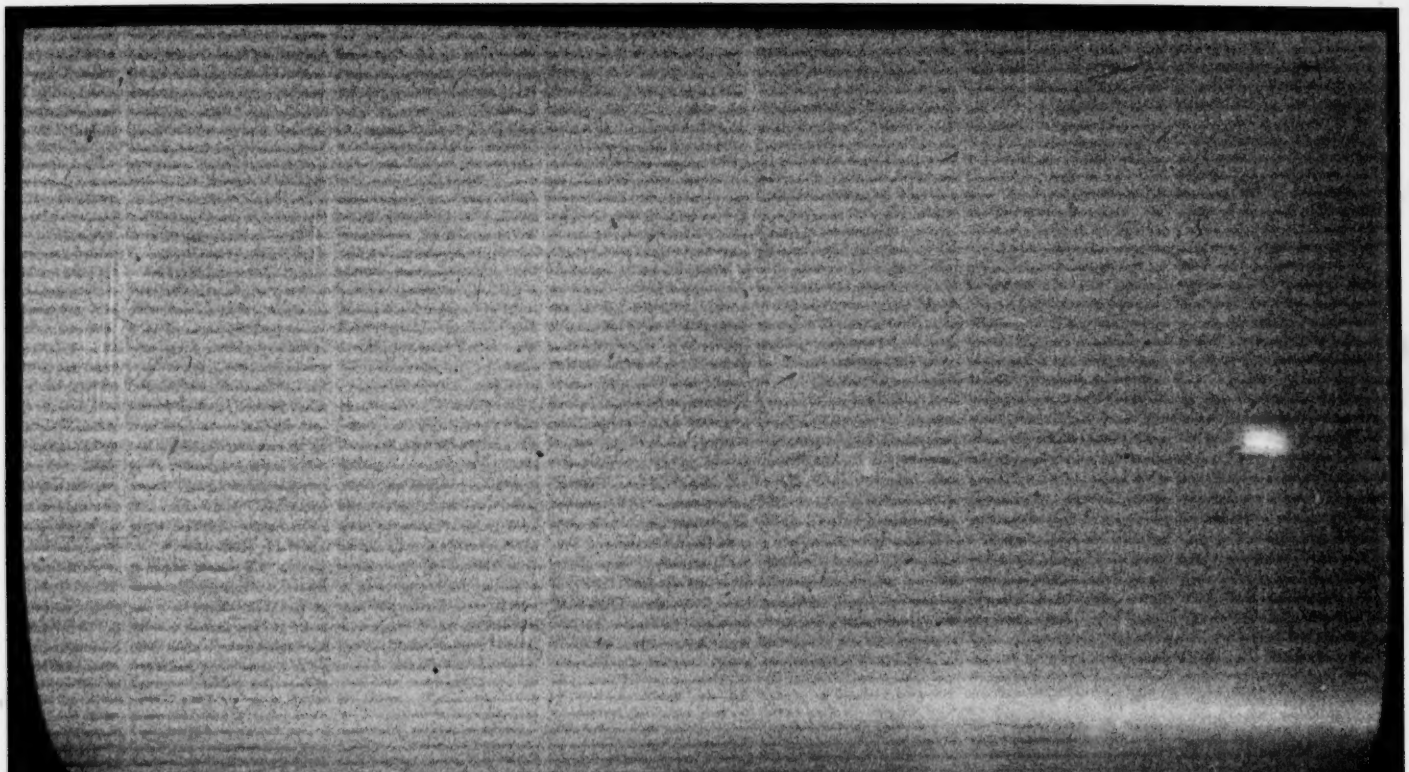
THE STEAMSHIP "PANAMA," MANUEL QUEVEDO, CLAIMANT, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

Extract from Exhibit A.



[ORIGINAL.]

APÉNDICE NÚM. 2.

COPIA DEL CONTRATO

PARA EL ESTABLECIMIENTO DE SERVICIOS POSTALES MARÍTIMOS, CELEBRADO CON LA COMPAÑIA TRANSATLÁNTICA ESPAÑOLA EN CONSEJO DE MINISTROS EN 17 DE NOVIEMBRE DE 1886, Y ACEPTADO POR LA COMPAÑIA EN 18 DEL MISMO MES

Objeto del contrato

1

El contratista que tome á su cargo este servicio se compromete á desempeñar los de comunicaciones marítimas que se determinan en el art. 2.°, con buques de vapor que reunan las condiciones que más adelante se detallan, á conducir á bordo de los mismos, con destino á los puertos indicados en dicho art. 2.°, la correspondencia pública y de oficio y el pasaje y carga oficial; y por último, á prestar con dichos buques los servicios auxiliares de guerra de que sean susceptibles, subordinándose en todo á las prescripciones de este pliego.

2

Los servicios de comunicaciones marítimas á que se refiere el articulo anterior serán los siguientes:

A. Treinta y seis viajes de Cádiz y Santander á las Antillas. Los que partan de Santander tendrán combinación con algunos puertos del Norte de Europa, y los que mensualmente partan de Cádiz, podrán hacer escala en Las Palmas de Gran Canarias, debiendo extenderse todos á New York y Veracruz, y uno de cada mes á la Guaira, Puerto Cabello, Sabanilla, Cartagena y Colón.

Abierto el Canal de Panamá, el contratista extenderá hasta Guayaquil una de las expediciones mensules de que trata el párrafo anterior.

También establecerá desde luego combinaciones mensuales: en el Pacífico (utilizando el ferrocarril de Panamá), desde Valparaiso á San Francisco, y en el At-

[TRANSLATION.]

APPENDIX No. 2.

COPY OF THE CONTRACT

FOR THE ESTABLISHMENT OF MARITIME POSTAL SERVICES, CONCLUDED WITH THE COMPAÑIA TRANSATLÁNTICA ESPAÑOLA IN THE COUNCIL OF MINISTERS OF NOVEMBER 17, 1886, AND ACCEPTED BY THE COMPANY ON THE 18TH OF THE SAID MONTH.

Purposes of the contract.

1

The contractor undertaking this service binds himself to perform that of the maritime communications designated in Article 2, by means of steam vessels that shall meet all the requirements hereinafter set forth; to carry on board of the same, with the ports mentioned in the said Article 2 as destination, private and official correspondence and official passengers and freight; and, lastly, to furnish with said vessels the auxiliary war services to which they are adapted, subject in all things to the provisions of this instrument.

2

The maritime communication service to which the foregoing article refers shall be the following:

A. Thirty-six voyages from Cadiz and Santander to the West Indes. Those starting from Santander shall have connections with some ports of northern Europe and those starting monthly from Cadiz may touch at Las Palmas in the Canaries, all being continued to New York and Vera Cruz, and one voyage each month to La Guaira, Puerto Cabello, Cartagena and Colon.

The Panama Canal once opened, the contractor shall extend one of the monthly voyages referred to in the foregoing paragraph to Guayaquil. He shall also establish at once monthly connections. On the Pacific (utilizing the Panama Railroad), from Valparaiso to San Francisco, and on the Atlantic, from New York to New

lántico, desde New York á New Orleans; de Habana á New Orleans; Habana á Savannah, á Charleston, Georges Town, Baltimore y Filadelfia, y de New York á Boston y Quebec.

B. Trece viajes redondos anuales que arrancando de un puerto de Inglaterra y tocando en los de la Peninsula que determinarán los itinerarios previamente sometidos á la aprobación del Gobierno, partan del puerto de Barcelona para Manila por el Canal de Suez, cada cuatro semanas, y combinaciones en los puertos del itinerario que sean más convenientes para servir, alternando con los viajes directos, el correo de Filipinas que va por via extranjera y para relacionar á España y Filipinas con el Havre, Londres, Amberes, Hamburgo, Marsella, Génova y Nápoles con Kurachee y Bushire en el Golfo Pérsico, Zanzibar y Mozambique, en la costa oriental de Africa, Bombay y Calcuta, Soigon, Sidney y Batavia, Hong-Kong, Shangay, Hyago y Yocohama.

Continuará el servicio de vapores actualmente establecido entre Singapore y Manila, con el fin de que pueda utilzarse alguna de las lineas extranjeras y conducir por ella la correspondencia entre la Peninsula y el Archipiélago Filipino.

El Ministerio de Ultramar determinará oportunamente con cuál de las lineas mencionadas deberá enlazar este servicio, cuidándose de escoger aquella cuyos viajes menos coincidan con los de la linea española, de suerte que, á ser posible, se asegure á nuestras colonias de Asia y Occeania un servicio quincenal de comunicaciones maritimas con la Peninsula.

C. Seis viajes redondos anuales que, arrancando de un puerto de Francia del Mediterráneo ó del Cantábrico, y tocando en los de la Peninsula que se determinarán en los itinerarios oficiales, partan del puerto de Cádiz para el de Buenos Aires, pudiendo hacer las escalas de Santa Cruz de Tenerife, Rio Janeiro, Montevideo y las demás que en dichos itinerarios se determinen.

Estos viajes deberán tener combinaciones en Cádiz con los principales puertos del Mediterráneo, cuando la expedición

Orleans; from Havana to New Orleans; Havana to Savannah, Charleston, Georgetown, Baltimore and Philadelphia, and from New York to Boston and Quebec.

B. Thirteen round trips per year which, starting at a port of England and touching at such ports of the Peninsular as may be designated in the itinerary previously submitted to the approval of the Government, shall be made every four weeks from the port of Barcelona to Manila by way of the Suez Canal, with connections at the ports of the itinerary most convenient to serve (alternating with the direct trips) the Philippines mail carried by a foreign line, and to bring Spain and the Philippines into connection with Havre, London, Antwerp, Hamburg, Marseilles, Genoa and Naples, with Kurachee and with Bushire on the Persian Gulf; Zanzibar and Mozambique, on the eastern coast of Africa, Bombay and Calcutta, Saigon, Sidney and Batavia, Hongkong, Shanghai, Hiogo and Yokohama.

The steamship service now established between Singapore and Manila shall continue in order that some one of the foreign lines may be utilized to carry the mail between the Peninsula and the Philippine Archipelago.

The Ministry of the Colonies shall opportunely determine with which of the lines mentioned this service is to connect, care being taken to select those whose trips least coincide with those of the Spanish line, so that, if possible, our colonies of Asia and Oceanica may be assured a fortnightly service of maritime communication with the Peninsula.

C. Six round trips per year which, starting from a French port on the Mediterranean or the Bay of Biscay, and touching at the ports of the Peninsula that may be designated in the official itineraries, shall run from the port of Cadiz to that of Buenos Ayres, with the right to touch at Santa Cruz de Teneriffe; Rio Janeiro, Montevideo and elsewhere, as the said itineraries may determine.

These trips must have connections at Cadiz with the principal ports of the Mediterranean, when the voyage starts

parta del Cantábrico, y con los del Cantábrico si parte del Mediterráneo.

D. Cuatro viajes redondos al año que en combinaciones con Barcelona, arranquen de Cádiz hasta Fernando Póo y regreso, tocando en Larache, Rabat, Mazagán, Mogador, Las Palmas, Rio de Oro, Cabo Verde, Monrobia ú otras escalas que se determinen en los itinerarios.

E. Veinticuatro viajes anuales entre Málaga y Ceuta, Algeciras, Tánger y Cádiz con prolongación á Larache, Rabat, Mazagán y Mogador, ocho veces al año, completando asi, con los cuatro de Fernando Póo que visitan esto puntos, doce comunicaciones anuales entre ellos y los anteriormente mencionados, y ciento cuatro viajes de Cádiz á Tánger y regreso.

3

El servicio de las Antillas se desempeñará á una marcha media anual por el pomedio de esta linea de

11,50 millas por hora desde que empiece á regia este contrato.

12 millas por hora desde 1.° de Octubre de 1888.

12,50 millas por hora, desde 1.° de Enero de 1893.

Las prolongaciones de esta linea seráu servidas con una velocidad media anual por el promedio de ella de

10 millas por hora.

El servicio de Filipinas será desempeñado á una marcha media anual por el promedio de ésta de

10,15 millas por hora desde el dia en que rija este contrato.

11,15 millas por hora desde 1.° de Junio de 1890.

12,50 millas por hora desde 1.° de Enero de 1895.

La marcha de la linea de Buenos Aires será de 11 millas por hora, la de Fernando Póo de 8 millas, y la de Marruecos de 8,50.

4

El presente contrato empezará á regir desde que se conseda el crédito necesario para su cumplimiento por parte del Estado. Los nuevos servicios de las Antillas y

from the Bay of Biscay, and with those of the Bay of Biscay if it starts from the Mediterranean.

D. Four round trips a year which, having connections with Barcelona, shall run from Cadiz to Fernando Po and return, touching at Larache, Rabat, Mazagan, Mogador, Las Palmas, Rio de Oro, Cape Verde, Monrovia, or elsewhere as the itineraries may determine.

E. Twenty-four round trips per annum between Malaga and Ceuta, Algiers, Tangiers and Cadiz, with extensions to Larache, Rabat, Mazagan, and Mogador, eight times a year, thus making, with the four Fernando Po trips which touch at these ports, twelve yearly communications between them and those previously mentioned, and one hundred and four trips from Cadiz to Tangiers and return.

3

The West Indian service shall be carried out at a mean annual speed over the average of this line of

11.50 miles an hour from the time this contract goes into effect.

12 miles an hour from October 1, 1888.

12.50 miles an hour from January 1, 1893.

The extensions of this line shall be served with a mean annual speed for the average thereof of

10 miles an hour.

The Philippine service shall be effected at a mean annual speed for the average thereof of

10.15 miles an hour from the day this contract goes into effect.

11.15 miles an hour from June 1, 1890.

12.50 miles an hour from January 1, 1895.

The speed of the Buenos Aires line shall be 11 miles an hour; for the Fernando Po 8 miles, and for the Morocco 8.50.

4

This contract shall go into effect whenever the appropriation necessary to insure its performance shall be made by the Government. The new West Indian and

Filipinas se establecerán el dia 1.° de Julio de 1887.

Los de Buenos Aires, Fernando Póo y Marruecos no se inaugurarán hasta 1.° de Diciembre siguiente, á menos que el contratista manifestase estar en posibilidad de plantearlos con anterioridad.

La duración del contrato será de veinte años y deberá considerarse prorrogado si dos años antes de su terminación no hubiese sido denunciado por alguna de las partes. La prórroga tácita no excederá de dos años, al cabo de los cuales el Estado podrá dar por terminado el contrato si asi le conviniere.

5

Como auxilio para la ejecución del contrato, el Estado se obliga á pagar la subvención de 10,18 pesetas en la linea de América, cuyos servicios se designan con la letra *A* en el art. 2.°, y 7,15 en la de Filipinas, designada en el mismo con la *B* por milla de recorrido, y pesetas 0,73 por milla de trayecto servido por combinación en ambas líneas.

Cuando se efectúe la apertura del Canal de Panamá, el Gobierno no debe abonar en la prolongación del ramal de Colón hasta Guayaquil, más que el importe de los derechos del canal.

Por el servicio de Buenos Aires (según el art. 2.° *C*) recibirá el contratista una subvención de 5,93 pesetas por milla.

Por el servicio de Fernando Póo (según el art. 2.° *D*) recibirá el contratista una subvención de 5,93 pesetas por milla.

Por los servicios de Marruecos (según la letra *E* del mismo articulo), una subvención de 5,93 pesetas por milla.

El pago del las subvenciones se verificará mensualmente en la corte por los Ministros de la Gobernación y Ultramar, en cuyos presupuestos se consignará el importe total de la subvención.

Todas las sumas que el Estado ha de satisfacer á la Compañia se pagarán precisamente en metálico y sin deducción ni descuento por ningún concepto.

6

El Gobierno se compromete á no celebrar, mientras dure este contrato, otros que tengan por objeto subvencionar nue-

Philippine services shall be established on the 1st day of July, 1887.

The Buenos Aires, Fernando Po and Morocco services shall not be inaugurated until the 1st of December following, unless the contractor shows he is in a position to establish them before that.

The duration of the contract shall be twenty years, and shall be considered as extended if within two years from the termination thereof notice to the contrary shall not have been given by one of the parties. The tacit extension shall not exceed two years, at the expiration of which the Government may consider the contract as terminated, should it so desire.

5

By way of aiding in the execution of the contract, the Government binds itself to pay a subsidy of 10.18 *pesetas* to the American line, whose services are designated under the letter *A* in Art. 2, and 7.15 to the Philippine line, designated therein under the letter *B*, per mile run, and 0.73 *pesetas* per mile of route served in combination by both lines.

When the opening of the Panama Canal shall be effected, the Government shall not grant for the extension of the branch line from Colon to Guayaquil more than the amount of the canal dues.

For the Buenos Aires service (according to Art. 2, *C*) the contractor shall receive a subsidy of 5.93 *pesetas* per mile.

For the Fernando Po service (according to Art. 2, *D*) the contractor shall receive a subsidy of 5.93 *pesetas* per mile.

The payment of the subsidies shall be made monthly in Madrid by the Ministers of the Interior and the Colonies, whose budgets shall include the total amount of the subvention.

All sums payable by the Government to the Company shall be paid indispensably in coin without any deduction or discount whatsoever.

6

The Government binds itself, during the life of this contract, not to enter into any others having for object the subsidiz-

vas lineas de vapores entre los mismos puntos.

La Compañia concesionaria disfrutará de los privilegios y ventajas que por disposiciones generales se otorguen á la Marina mercante española.

Asimismo no podrá ser sometida á ningún impuesto especial.

Si el Gobierno creyere conveniente aumentar ó disminuir durante el contrato el número de viajes anuales para cualquiera de las lineas establecidas, podrá efectuarlo, quedando el contratista obligado á la variación, y entendiéndose que el auxilio ha de aumentar ó disminuir en su caso, en una parte proporcional al tipo de subvención que para cada linea se señale.

Si la supresión de viajes obligase á la Compañia á retirar ó inutilizar una parte de su material, el Gobierno estará obligado á la correspondiente indemnización.

También podrá el Gobierno prolongar las lineas contratadas. Asimismo tendrá la facultad de suprimir ó añadir nuevos puntos de escala, dentro de aquéllas, sin que tal alteración implique variación en la subvención, aunque haya lugar á la indemnización de que trata el párrafo precendente, si la Compañia tuviese que retirar alguna parte del material.

7

Si al espirar los cinco primeros años del presente contrato la contabilidad de la empresa concesionaria arrojas un excedente anual, después de cubiertas las obligaciones, intereses y reservas que abajo se expresan, el Gobierno podrá exigir que la tercera parte de ese sobrante se invierta en el establecimiento de neuvas lineas, en aumentar la marcha de los vapores, en proporcionar mayor comodidad á los viajeros, ó en mejorar las condiciones del servicio del Estado.

Para apreciar la existencia del sobrante, deberá la Compañia establecer una contabilidad separada, respecto de cada uno de los vapores que estrá obligada á sostener, en cumplimiento del contrato, cuidanto de anotar escrupulosamente los productos é ingresos que rindo el barco, y enfrente de éstos, los gastos siguientes:

1.° Los corrientes de entretenimiento del vapor.

ing of new steamship lines between the same points.

The concessionary Company shall enjoy the privileges and advantages granted by general legal provisions to the Spanish merchant marine. In like manner it shall not be subject to any special tax.

Should the Government deem it advisable to increase or diminish, through the contract term, the number of annual trips on any of the established lines, it may so do, the contractor being bound by the change, and it being understood that the aid shall increase or diminish, as the case may be, proportionately to the class of subsidy designated for each line.

Should the suppression of trips compel the Company to withdraw, or impair any of its property, the Government shall be bound to the corresponding indemnity.

The Government may likewise extend the contract lines. It shall also have the power to suppress or add new way ports within the said lines, without such change implying any change in the subsidy, even though a case for the indemnity of which the foregoing paragraph treats shall arise, through the Company having to withdraw any part of its property.

7

If at the expiration of the first five years of this contract the books of the concessionary Company shall show an annual surplus after the meeting of the obligations, interest and reserve below mentioned, the Government may require the one-third part of such surplus to be invested in the establishment of new lines, in increasing the speed of the steamships, in furnishing greater comforts to travellers, or in improving the conditions of the Government service.

In order to arrive at the amount of the surplus, the Company shall keep separate accounts for each steamship it is bound to maintain in the performance of the contract, taking care to scrupulously note the revenues and receipts of each vessel, and opposite these the following expenses:

1. The current expenses for the maintenance of the steamship.

2.° Una parte proporcional de los gastos generales en la explotación de los servicios contratados.

3.° El 6 por 100 del vapor del barco (según balance), como prima de seguro.

4.° El 5 por 100 del capital del barco y 20 por 100 de su mobiliario, como amortización.

5.° El 5 por 100 del valor de inventario del barco.

6.° El 5 por 100 como fondo de reserva especial de las lineas que deberán ser servidas en ejecución del presente contrato.

7.° Los gastos hechos en concepto de mantenimiento de hombres, carbón, conservación de máquinas, útiles, etc., etc.

La comparación entre los ingresos y estos gastos denunciará el sobrante.

El cálculo de los tantos por ciento mencionados en los núms. 4.° y 6.°, deberá basarse sobre el valor, á justificar por los libros que los buques tuviesen en la época en que fueron dedicados al servicio de las lineas del contrato. El cálculo de la parte proporcional de los gastos generales, deberá establecerse sobre el valor de cada buque, según balance, en relación al de la flota entera de la Compañía.

El Gobierno tendrá en todo tiempo el derecho de examinar los libros de contabilidad del concesionario.

8

Cuando el contratista, para desempeñar los servicios objeto de este contrato, presente adquiridos en el extranjero, quedará relevado del pago de los derechos que correspondan al Estado por su introducción, abanderamiento y matricula, así como de los que correspondan al cargo de cada buque, según su porte. Pero si alguno de estos barcos fuese destinado á otros servicios ó enejenado á otro particular ó Compañía, satisfará entonces los derechos correspondientes á cada uno de los indicados conceptos.

9

Los gastos de otorgamiento de la escritura y de cuatro copias para el Gobierno, serán de cuenta del contratista.

2. A proportional part of the general expenses in the performance of the services contracted for.

3. Six per cent. of the value of the vessel (as per balance sheet) as insurance premium.

4. Five per cent. of the capital of the vessel and twenty per cent. of its furnishings, as amortization.

5. Five per cent. of the inventory value of the vessel.

6. Five per cent. as a special reserve of the lines to be served in the execution of this contract.

7. The amounts expended in the maintenance of men, coal, care of machinery, tools, etc., etc.

The difference between the receipts and the expenses will show the surplus.

The calculation of the percentages mentioned in numbers 4 and 6 should be based upon the value, as shown by the books of the vessels at the time they were put into the service of the lines covered by the contract. The calculation of the proportional part of the general expenses should be based on the value of each vessel, as per the balance sheet, as compared with that of the whole fleet of the Company.

The Government shall have at all times the right to examine the account books of the concessionary.

8

When in order to perform the services to which this contract relates, the contractor shall provide vessels acquired abroad, he shall be exempt from the payment of the duties due the Government for their introduction, flag transfer and registration, as well as of those corresponding to the burden of each vessel, according to capacity. But if any of these vessels should be put to other services or transferred to another individual or company, it shall then pay the corresponding duties in each of the above instances.

9

The costs for executing the instrument and for four copies thereof for the Government shall be payable by the contractor.

Condiciones generales.

10

El Ministerio de Ultramar, de acuerdo con del Marina, formará los intinerarios de todas las lineas y plan de combinaciones; fijará las horas de salida, escala, etc., etc., teniendo en cuenta para la duración de los viajes la marcha y condiciones de los buques destinados á cada servicio.

11

Cuando algún suceso extraordinario, las Leyes sanitarias ó cualquiera otras disposiciones exijan que los buques terminen su viaje en otros puntos que no sean los fijados en este contrato, el arribo excepcional á los indicados puertos se reputará término de viaje para todos los efectos de dichos contratos.

12

Los buques no podrán salir de los puertos españoles, cabezas de las lineas, antes de haber recibido la correspondencia oficial. El Gobierno ó los Gobernadores generales de las provincias y posesiones de Ultramar tendrán la facultad de retardar la salida veinticuatro horas consecutivas, sin abono de indemnización alguna. Si la retardaren por más tiempo, se abonará al contratista la cantidad de 2.500 pesetas por cada medio día comenzado ó doce horas de retraso. La hora de la salida se fijará por el Ministerio de Ultramar.

13

El contratista tendrá siempre dispuesto buque para la salida del correo de los puertos españoles, cabezas de lineas, con dos días de anticipación, reservando en el, á la orden del Gobierno, ó de los Gobernadores generales, respectivamente, dos camarotes de primera clase hasta veinticuatro horas antes de la señalada para la partida.

14

Los buques mientras tengan á bordo la correspondencia oficial, no podrán hacer escala ó arribada en otros puntos que los designados en el presente de condiciones, ó en los que nuevamente se designaren en el caso previsto en al art. 6.°, á no ser ob-

General conditions.

10

The Ministry of the Colonies, by agreement with that of the Navy, shall draw up the itineraries of all the lines and the schedule of connections, set the hours of departure, ports of call, etc., etc., keeping in mind, for the duration of the trips, the speed and conditions of the vessels employed in each service.

11

When some extraordinary event, health regulations or any other legal provisions require vessels to terminate their voyage at points other than those established in this contract, the exceptional putting in to such ports shall be deemed an end of the voyage for all the purposes of said contracts.

12

Vessels shall not leave Spanish ports, starting points of the lines, before receiving the official mail. The Government or the Governors-General of Colonial provinces and possessions shall have the right to delay the sailing twenty-four consecutive hours without granting any indemnity whatsoever. Should they delay it for a longer time, the contractor shall be granted the sum of 2,500 *pesetas* for each half-day begun, or twelve hours of delay. The hour of departure shall be set by the Ministry of the Colonies.

13

The contractor shall have a vessel always ready two days ahead of time, for the departure of mails from Spanish ports, starting points of lines, reserving thereon to the order of the Government or the Governors-General, respectively, two first-class staterooms up to twenty-four hours before the time set for departure.

14

Vessels, while carrying official mail on board, cannot call at or put in to any points other than those designated in this instrument of conditions, or those which may hereafter be designated in the case covered by Art. 6, unless compelled

ligados por fuerzo mayor, cuya circunstancia se acreditará en debida forma.

15

No se consideran como caso de fuerza mayor para los efectos del articulo anterior ni para justificar los retrasos, los que provengan de las circunstancias desfavorables de la mar y vientos generales de proani las averias de máquinas, calderas ó aparejos que puedan experimentar los buques durante su navegación, como no constituyan un accidente extraordinario, y tampoco los que deben imputarse al contratista ó á sus agentes ó empleados, ya provengan de malicia, ya de ignorancia ó negligencia de los mismos.

16

El contratista no podrá ceder ni enajenar este servicio sin la previa autorización del Gobierno.

17

Podrán ser contratistas de este servicio, previa la oportuna adjudicación en los términos que se resuelva por el Ministerio de Ultramar, bien los españoles que por si ó por su legitima representación lo soliciten, bien cualquiera de las diferentes personalidades juridicas que el derecho reconoce, con tal que estén domiciliadas en España.

18

En el caso de ser contratista una sociedad anónima, sus gerentes ó administradores serán nombrados por el Gobierno á propuesta en terna de la junta general de accionistas.

El Gobierno, cuando lo estimare conveniente, podrá no conformarse con ninguno de los propuestos y exigir nuevas ternas.

Las acciones de esta sociedad serán nominativas y no podrán ser transferidas sin previo conocimiento del Gobierno.

19

Si el contratista estableciera su domicillo fuera de la corte, tendrá en ella persona competentemente autorizada que le represente en todo cuanto haya de tratar con el Gobierno respecto de este contrato. El apoderado deberá hallarse con

thereto by *force majeure*, which circumstance shall be proved in due form.

15

Delays occasioned by unfavorable conditions of the sea and general head winds will not be considered as cases of *force majeure* for the purposes of the foregoing article, or as justifiable; neither shall injuries to engines, boilers or apparel that vessels may suffer while under way, so long as they do not constitute an extraordinary accident; nor shall such injuries as may be charged to the contractor or his agents or employees, occasioned either by the malice, ignorance or negligence of the same, be so considered.

16

The contractor shall not assign or transfer this service without the previous authority of the Government.

17

Spaniards, who for themselves or through their legitimate representative may solicit it, or any of the several corporations recognized by law, provided they are domiciled in Spain, may become contractors for this service, after the proper adjudication upon the terms laid down by the Minister of the Colonies.

18

In case a joint stock corporation becomes the contractor, its managers or directors shall be selected by the Government from three nominated by the general meeting of stockholders.

The Government, should it deem it expedient, may object to all of the nominees, and require three more to be submitted. The shares of this corporation shall be registered in the name of the holders, and shall not be assigned without the previous knowledge of the Government.

19

Should the contractor establish his domicile outside of Madrid, he shall have there a person properly empowered to represent him in all matters concerning the contract upon which he may have to confer with the Government.

poderes bastantes, no sólo para representar al contratista, tanto judicial como extrajudiciamente, sino también para obligarle en cuantos asuntos ocurran relativos á la ejecución y cumplimineto del presente contrato.

20

Los vapores que el contratista tenga asignados á este servicio serán preferidos para su despacho en las visitas de Sanidad y puerto y en las oficinas del Estado, debiendo ser atendidos sus Capitanes en el momento en que se presenten, suspendiéndose cualquier otro asunto, si fuese necesario, hasta que quede despachado el correo.

21

Las cuestiones que pudieran suscitarse acerca de la inteligencia, cumplimiento, rescisión y efectos del presente contrato, se resolverán por el Ministerio de Ultramar, con arreglo á la legislación por que se rigen todos los del Estado, y al hacerse contenciosas, se ventilarán ante el tribunal competente en el modo y forma que determinen las Leyes.

De los buques

22

Para el servicio de las Antillas se obliga el contratista á tener á flote doce buques de vapor de las condiciones que más adelante se determinan, mientras cada uno de los barcos, ó todos juntos, no realicen una marcha media de 14 millas en prueba. En este caso, los barcos que el contratista estará obligado á conservar á flote serán diez solamente.

Para desempeñar el servicio de 11,50 millas con la oportunidad necesaria, el contratista deberá tener presentados tres vapores el primer mes, tres el segundo, tres el tercero y tres el cuarto mes del primer año del contrato, de un andar en prueba de 13 millas.

Para desempeñar el servicio de 12 millas, deberá tener presentados, con la oportunidad necesari, diez buques de un andar en prueba de 14 millas.

Y para con la misma oportunidad poder plantear el servicio de 12,50 millas, promedio anual, deberá tener presentados

The attorney in fact must be possessed of sufficient authority, not only to represent the contractor legally as well as extrajudicially, but also to bind him in all things growing out of the execution and performance of this contract.

20

The steamships the contractor may employ in this service shall have preference in the visits of the health officer and harbor master and in the Government offices, their Captains being entitled to immediate attention upon presenting themselves, all other matters being suspended, if necessary, until the mail shall be dispatched.

21

Questions that may arise regarding the meaning, performance, rescission and effects of this contract shall be determined by the Ministry of the Colonies, in accordance with the laws governing all Government contracts, and upon disagreements arising they shall be settled before the competent court in the manner and form provided by law.

Of the vessels.

22

For the West Indian service the contractor binds himself to keep afloat twelve steamships having the conditions hereinafter set forth, until each or all of the vessels reach an average trial speed of 14 miles. When this occurs, the vessels the contractor shall be bound to keep afloat shall be ten only.

To perform the 11.50 mile service within the necessary time, the contractor must have turned over three steamships the first month, three the second, three the third and three the fourth month of the first year of the contract, of a trial speed of 13 miles.

To perform the 12 mile service, he must have turned over within the necessary time ten vessels of a trial speed of 14 miles.

And to be able to establish the 12.50 mile (annual average) service within the necessary time, he must have turned over

ocho buques de 14 millas y dos de 17 millas en prueba, en la cual podrá emplear el tiro forzado.

Antes del año de 1896 deberá presentar un tercer buque de un ander de 17 millas en prueba, la cual podrá también hacerse con el tiro forzado.

23

Para el servicio de Filipinas se compromete el concesionario á tenor á flote seis buques de vapor de las condiciones siguientes, á saber:

Para desempeñar el servicio de 10,15 millas, el contratista se compromete á presentar con la debida oportunidad seis vapores desde Julio á Diciembre de 1887, uno cada mes, de un andar en prueba de 12 millas.

Para desempeñar el servicio de 11,15 millas, deberá tener presentados, con la oportunidad necesaria, seis buques, de un andar en prueba de 13 millas.

Para la fecha en que deba desempeñarle á 12,50, deberá tener presentados seis buques de 14 millas en prueba.

24

Además de los diez y ocho buques de altura, el contratista se compromete á tener á flote y mantener en buen estado de conservación el número de buques auxiliares suficientes para servir las extensiones que especifica el art. 2.°, de una cabida adecuada al tráfico que han de servir.

Igualmente se obliga á tener á flote el número de buques necesarios para desempeñar el servicio de Buenos Aires, según el art. 2.° (*C*); el de Fernando Póo, según el art. 2.° (*D*); los de Marruecos, según el articulo 2.° (*E*); el de Cádiz á Tánger y el de Cádiz á los otros puertos de Marruecos.

Todos ellos han de ser de cabida proporcionada al tráfico á que se destinan.

25

Los buques destinados á las lineas principales de correos de las Antillas y Filipinas, podrán emplearse indiferentemente en ambos servicios, sin perjuicio de la marcha media anual que en cada uno deben alcanzar. Los buques nuevos serán de hierro, acero ó del material que la

eight vessels of a trial speed of 14 miles and two of 17 miles, in which he may employ forced draught.

Before the year 1896 he must turn over a third vessel of a trial speed of 17 miles, which he may also secure by forced draught.

23

For the Philippine service the concessionary binds himself to have afloat six steamships having the following conditions, to wit:

To perform the 10.15 mile service the contractor binds himself to turn over within the proper time six steamships between July and December, 1887, on each month, of a trial speed of 12 miles.

To perform the 11.15 mile service, he must have turned over, within the necessary time, six vessels of a trial speed of 13 miles.

By the date upon which he must perform the 12.50 mile service he must have turned over six vessels of a trial speed of 14 miles.

24

Besides the eighteen ocean-going vessels, the contractor binds himself to keep afloat and maintain in a good state of repair the number of auxiliary vessels sufficient to serve the extensions specified in Art. 2, of a capacity adapted to the traffic in which they are to engage.

He likewise binds himself to have afloat the number of vessels necessary to perform the Buenos Aires service, pursuant to Art. 2, *C;* the Fernando Po service, pursuant to Art. 2, *D;* the Morocco services, pursuant to Art. 2, *E;* the service from Cadiz to Tangiers and that from Cadiz to the other ports of Morocco. All these must be of a capacity proportionate to the traffic in which they are engaged.

25

The vessels intended for the principal West Indian and Philippine mail lines may be employed indiscriminately in both services, without prejudice to the mean annual speed each must attain. The new vessels shall be of iron or of the material experience may prove to be the

experiencia acredite como más beneficioso; estarán construídos conforme á las reglas del *Lloyd* ó del *Veritas*, clasificados por una de estas compañías con la mejor letra ó nota; tendrán casco de doble fondo, dividido en secciones estancos, sistema celular, con cuantas mejoras hayan acreditado los progresos del arte de la construcción naval, y su cubierta y costados tendrán la solidez necesaria para sopotar la artillería que deben llevar. Medirán cuando menos 5.000 toneladas de desplazamiento en la línea de las Antillas, y 4.500 en las de Filipinas. Serán de hélice, y las máquinas de vapor sistema Compound, de triple expansión ó de otro que estuviese más acreditado, y capaces de imprimir la velocidad que á cada barco se le exija, debiendo estar preparados para emplear el tiro forzado cuando conviniere.

Las carboneras serán de hierro y capaces de contener el carbón necesario para el consumo del trayecto más largo entre los puertos que los buques hayan de recorrer, y además el 10 por 100 de dicho consumo.

Los destiladores de agua dulce deberán producir á lo menos 300 litros de agua por hora.

Los alojamientos serán todo lo amplios, ventilados y espaciosos que permitan las dimensiones de los buques, y las instalaciones estarán á la altura de las mejores del extranjero.

En los camarotes no se permitirá más número de literas que el que cómodamente pueda establecerse, tomando por norma para cada camarote de dos personas en circunstancias ordinaris la longitud de dos metros (de popa á proa) y dos y medio de anchura.

Habrá en los barcos de las dos primeras líneas, capacidad para 500 plazas de tropa en el sollado y un lugar conveniente sobre cubierta.

Los buques estarán provistos en sus costados de portas sólidas y de buena luz y ventilación. Habrá en primera cámara un baño para señoras y dos para caballeros, cuando menos, y uno en càmara de segunda.

Los buques estarán provistos del mayor número de botes salvavidas que puedan llevar, comprometiédose á mantenerse en este punto á la altura de las mejores líneas extranjeras.

best; they shall be constructed according to the Lloyd or Veritas rules, and classified by one of these companies under the best letter or mark; they shall have double-bottomed hulls, divided into watertight compartments, cellular system, with all the latest improvements known to the art of naval construction; and their deck and sides shall have the necessary strength to support the artillery they are to mount. They shall measure at least 5,000 tons of displacement on the West Indies line, and 4,500 on the Philippine lines. They shall be screw vessels, with compound engines, triple expansion, or any other system of more repute, and capable of maintaining the speed required of each vessel, and being prepared to employ forced draught when expedient.

The bunkers shall be of iron and capable of holding the coal necessary for use on the longest route between the ports at which the vessels are to call, plus 10 per cent. of such supply.

The fresh water condensers shall produce at least 300 liters of water per hour.

The accommodations shall be as ample, ventilated and spacious as the dimensions of the vessels will allow, and the fixtures shall be on a par with the best abroad.

The staterooms shall contain no greater number of berths than they can comfortably hold, taking as a standard for each stateroom, for two persons of ordinary dimensions, a length of two meters, from stern to stem, and a width of two-and-a-half.

The vessels of the two first lines shall have a capacity for 500 enlisted men in the orlop deck and a convenient place on deck.

The vessels shall be provided with solid ports and good light and ventilation on the sides. The first cabin shall have one bath for ladies and two for men, at least, and one bath in the second cabin.

The vessels shall be provided with the greatest number of life boats they can carry, being bound to keep in this respect on a par with the best foreign lines.

Llevarán cinturones salvavidas para todos los pasajeros y tripulantes y aparatos contra incendio. Una instrucción, colocada en sitio visible, determinara lo que cada pasajero y tripulante deberá practicar en caso de siniestro para el salvamento común.

Tendrán el suficiente número de mamparos estancos, según los últimos adelantos de los mejores correos extranjeros, y las portas de dichos mamparos han de estar en disposición de poder cerrarse rápidamente en caso necesario.

Estarán tambieén provistos de un juego completo de bombas y comunicaciones para achicar cada compartimiento.

Al empezarse la construcción de un buque, la compañia presentará al Ministro de Ultramar los planos del mismo, tal como á ella le convenga para su servicio comercial y postal. El Ministro hará estudiar las disposiciones que deban tomarse en previsión de la instalación rápida en tiempo de guerra de piezas de artillería á bordo de dicho buque, y podrá obligarse á la Compañia á hacer los refuerzos parciales en el casco que juzgue útiles para el establecimiento posible de esa artillería.

Dichos refuerzos no podrán ser exigidos para mayor número de seis piezas cuyo peso y esfuerzo de reacción no excedan de los de una pieza de 14 centimetros.

Respecto á los buques ya construídos, bastará que la Compañia ponga de manifiesto los planos de los mismos, á fin de que el Ministro de Marina pueda hacer estudiar las medidas necesarias para adaptar dichos buques al servicio de guerra.

Si el Ministro juzgara necesario ó posible establecer desde el principio de la concesión variaciones en el sentido de esos usos, se llevarán á cabo, cuidando de que por ellas no sufra interrupción el servicio, y entendiéndose, que tanto en este caso como en el de nuevas adquisiciones, las reformas propuestas por el Ministerio serán de aquellas que no perjudiquen á los fines comerciales de los buques.

26

Cada buque embarcará, para su defensa, el armamento siguiente: 2 cañones sistema

They shall carry life belts for all the passengers and crew and fire-extinguishing apparatus. Instructions, displayed in some visible place, shall state what each passenger and number of the crew shall do in case of disaster for the common rescue.

They shall have a sufficient number of compartment bulkheads, according to the latest improvements on the best foreign mail steamers, and the ports of said bulkheads must be in a condition to be rapidly closed whenever necessary.

They shall also be provided with a complete set of pumps and connections to free each compartment of water.

When the construction of a vessel is begun the Company will present to the Minister of Marine the plans of the same, just as it wants her for its commercial and postal service. The Minister shall cause to be studied the steps that should be taken looking to the rapid mounting in time of war of pieces of artillery on board of said vessel, and the Company may be compelled to do such strengthening of the hull as may be deemed necessary for the possible mounting of artillery.

Such strengthening shall not be required for more than six pieces, whose weight and recoil force shall not exceed those of a 14-centimeter piece.

With respect to the vessels already constructed, the Company need only produce the plans thereof in order that the Minister of Marine may cause to be studied the measures necessary to adapt the said vessels to war service.

Should the Minister deem it necessary or possible to make changes in the way indicated from the beginning of the concession, they will be carried out, taking care that the service suffers no interruption thereby, and provided that in this instance, as well as in that of new acquisitions, the changes proposed by the Ministry shall be such as shall not prejudice the trade purposes of the vessels.

26

Each vessel shall take on board for its defense the following armament: Two

Hontoria, de 9 centésimas, con pólvora y municiones para 30 tiros cada pieza, 20 fusiles ó carabinas de sistema Rémington con 100 tiros para cada uno y bayoneta ó sable-bayoneta, y 20 sables de Marina (1).

27

Los buques empleados por el contratista deberán estar abanderados y matriculados en España y pertenecer á españoles, con arreglo á las disposiciones del Código de Comercio, de las Ordenanzas de Marina y demás prescripciones vigentes (2).

28

Si alguno de los vapores se inutilizase ó debiere ser retirado antes de 1895, será reemplazado con otro de tonelaje y marcha acomodadas á las exigencias del servicio que hasta entonces deba prestar la Compañía, con la mejora posible. Si la necesidad de retirar y reemplazar el buque surgiere después de 1895, el que haya de sustituirlo deberá tener una marcha en prueba de una milla más que el inutilizado ó perdido, salvo que se trate de reemplazar alguno de los que hubiesen acreditado la marcha de 17 millas. En este caso, si la necesidad del reemplazo ocurriere antes de 1899, la obligación del concesionario quedará limitada á sustituír el barco por otro de igunales condiciones de capacidad, comodidad y marcha. Si el siniestro ocurriese después de 1899, deberá exceder al anterior en media milla de velocidad, é

(1) Por R. O. de 1.º de Junio de 1889, y como consecuencia de instancia presentada por el representante de la Compañía Trasatlántica, se le concedió autorización para adquirir 20 cañones de 12 centímetros, modelo 83, para sus vapores correos, en sustitución de los de igual número de 9 centímetros de los mandados construír, estimándose ventajosa esta modificación, que sin alterar las condiciones del contrato, aumenta la defensa de los buques con un armamento más potente y eficaz que el prevenido en el art. 26 del mismo, con la condición de que se llenen, en los buques donde hayan de montarse dichos cañones, las condiciones de seguridad y firmeza que se exigen en los párrafos 12 y 13 del art. 25 del contrato, con lo cual quedarán en circunstancias más á propósito para el caso de tenerlos que armar en guerra.

(2) Véase Abanderamiento en el Título primero, capítulo I.

9-centimeter Hontoria guns, with powder and ammunition for 30 rounds for each piece; 20 Remington rifles or carbines, with 100 rounds apiece and a bayonet or sword-bayonet for each, and 20 cutlasses (1).

27

Vessels employed by the contractor must be enrolled and registered in Spain, and belong to Spaniards, pursuant to the provisions of the Code of Commerce, Marine Ordinances, and other regulations in force (2).

28

Should any one of the vessels become disabled or need to be withdrawn before 1895, it shall be replaced by another of a tonnage and speed adapted to the requirements of the service the Company must render up to that time, with all possible improvements. If the necessity for withdrawing and replacing the vessel arises after 1895, the vessel substituting it must have a trial speed one mile greater than that of the disabled or lost vessel, except when it is intended to replace one that has shown a speed of 17 miles. In this event, if the necessity for replacing occurs before 1899, the obligation of the concessionary is limited to substituting for the vessel another of equal conditions in the way of capacity, commodiousness and speed. Should the disaster occur after 1899, the vessel must exceed the former in speed by

(1) By Royal Order of June 1, 1889, and at the instance of the representative of the *Compañía Trasatlántica*, it was granted authority to acquire 20 12-centimeter guns, model 83, for its mail ships, in substitution of an equal number of 9-centimeter guns ordered made, this change being deemed advantageous, which, without altering the conditions of the contract, increases the defense of the vessels with a more powerful and efficient armament than that provided by Art. 26 of the same, upon condition that the vessels where said guns are to be mounted shall meet the requirements of solidity and strength called for in paragraphs 12 and 13 of Art. 25 of the contract, with which they will be in better conditions in case they have to be armed for war.

(2.) See *Abanderamiento*, Title first, Chap. I.

igualarle, á lo menos, en las restantes condiciones.

La reposición ó sustitución de los barcos retirados ó destruidos, deberá hacerla el concesionario dentro del plazo de diez y seis meses, á contar desde el día en que se le diese la orden al efecto.

En este caso, y en el de que los buques se inultilicen inopinadamente para el turno en el servicio, el contratista deberá continur éste provisionalmente sin interrupción, con buques que, previo el reconocimiento facultativo de que trata el artículo siguiente, sean aptos para desempeñarlo.

29

Los buques pertenecientes á las líneas principales de correos á que se refiere este contrato no se emplearán sino después de haber sido recocidos y admitidos. Se exceptúa el caso de que lo hubiesen sido al empezar los servicios actuales, siempre que de ese reconocimiento resultasen con las condiciones de marcha que para los nuevos servicios se exigen (1).

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(1) Por R. O. de Ultramar de 15 de Febrero de 1890, se declara sin lugar la denuncia hecha por el Inspector facultativo de la Compañía Transatlántica referente á que algunos barcos de la misma tienen más de veinte años, en atención á que el *San Francisco de Loyola* y el *Satrustegui*, á cuyos buques se refiere la dicha denuncia, son procedentes de los servicios antiguos, no siéndoles por tanto aplicable la prescripción 6.ª de la R O. de 28 de Julio de 1887 y sí la excepción consignada en el artículo 29 de este contrato-ley.

Prescripción 6.ª citada de la R. O. de 28 de Junio de 1887.

Sancionada la Ley concediendo los créditos necesarios para llevar á cabo el contrato de servicios postales marítimos, y á fin de que antes de proceder al otorgamiento de la escritura entre el Gobierno y la Compañia Transatlántica constare en todo tiempo cómo se entendía el contrato, sometió el Gobierno á la aceptación de la referida Compañia, por R. O. de 28 de Junio de 1887, para que expresamente quedase declarado que así lo entendía ella también, diversas declaraciones, entre las cuales expreseba la sexta lo siguiente: "En cuanto á la recepción de los buques con que ha de prestarse el servicio, no podrán admitirse barcos que tengan una edad superior á aquella que según el contrato necesitan para quedar totalmente amortizados, con la reserva de un 5 por 100 anual, es decir, *que barcos de más de veinte años no podrán ser en ningún caso recibid os...*"

a half mile, and equal it at least in the other requirements. The restoration or substitution of vessels withdrawn or destroyed must be effected by the concessionary within the term of sixteen months reckoned from the day on which he receives the order in the premises.

In such case, and in the event of the vessels becoming unexpectedly prevented from taking their turn in the service, the contractor must continue this temporarily without interruption with vessels which, after the expert inspection of which the next article treats, shall be fit to perform it.

29

The vessels belonging to the principal mail lines to which this contract refers shall not be employed until after they are inspected and accepted, save in case they were inspected upon entering the present service; provided that such inspection showed them to have the speed requirements called for in the new services (1).

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(1) By R. O through the Ministry of the Colonies of February 15, 1890, the complaint of the expert Inspector of the *Compañia Trasatlántica* to the effect that some of the vessels of the same are over twenty years of age, was declared to be groundless, in view of the fact that the *San Francisco de Loyola* and the *Satrustegui*, to which vessels the said complaint referred, came from the old services, the 6th provision of the R O. of July 28, 1887, being therefore inapplicable to them, while the exception set forth in Article 29 of this contract law is applicable.

Sixth provision of the R. O. of June 28, 1887, above cited:

The law appropriating the money necessary to carry out the contract of maritime postal services having been approved, and in order that before proceeding to the execution of the instrument between the Government and the *Compañia Trasatlántica*, it should appear at all times how the contract was understood, the Government submitted for the acceptance of the said Company, by R. O. of June 28, 1887, so that it might be expressly declared that the latter also understood it in the same way, several declarations, among which the sixth read as follows:

"As regards the acceptance of vessels with which the service is to be rendered, no vessel can be accepted of an age greater than that which, according to the contract they need to reach to be wholly paid for with the annual 5

El reconocimiento, que deberá verificarse á flote y en seco, siempre que sea posible, se desempeñará por una comisión facultativa, nombrada por el Ministerio de Marina, que examinará las condiciones de los buques, en la forma que se expresa á continuación, asegurándose previamente de que el certificado y clasificación por el Lloyd ó el Veritas de que trata el art. 25 se refieren precisamente al buque que se reconoce.

El contratista presentará además para el reconocimiento los documentos que acrediten la época en que los buques se construyeron y empezaron á prestar su servicio, y los referentes á las máquinas y calderas, expresando la prosión á que éstas fueron probadas, y acompañando los comprobantes necesarios para que no puedo caber duda nunca acerca de estos extremos.

30

La comisión á que se refiere el articulo anterior se cerciorará y así lo hará constar:

1.° Del arqueo que los buques midan, y de si se hallan en perfecto estado de servicio y de conversación y resistencia de sus diferentes partes.

2.° De si la arboladura, jarcia y velamen están en relación con el casco, atendido el servicio á que el buque se destine, y si tiene la resistencia suficiente y se halla en buen estado, asi como los aparatos para su labor.

3.° De si las máquinas y calderas están sólidamente construidas y en perfecto estado de servicio, examinando los documentos que acrediten la época en que fueron probadas y á qué presión.

4.° De si las carboneras tienen la capacidad debida, determinando y expresando cuál sea ésta.

5.° De si los repartimientos están bien

La Compañia, por comunicación de 30 del mismo mes y año, contestó acerca de esta declaración manisfestándose conforme con la misma, añadiendo que no veía en ello inconveniente, supuesto que 'no entra en los propósitos de la Compañía presentar en sustitución de los actuales vapores, al llegar la ocación de reponerlos, otros que no puedan ser recibidos por tener más de veinte años.' (R. O. de 24 de Febrero de 1890.)

The inspection, which should be carried out afloat and in dry dock whenever possible, will be made by an expert commission appointed by the Ministry of Marine, which shall examine the condition of the vessels, in the manner mentioned below, first assuring itself that the Lloyd or Veritas certificate and classification, of which Art. 25 treats, absolutely relate to the vessel under inspection.

The contractor shall further present for inspection the documents proving the time when the vessels were built and commenced to render service, and such as relate to the engines and boilers, showing the pressure at which the latter were tested, and accompanying the necessary vouchers so that there can never be any doubt regarding these matters.

30

The Commission to which the foregoing article refers shall ascertain and record:

1. As to the capacity the vessels measure, and whether they are in a perfectly serviceable state of preservation, and the resistance of their different parts.

2. As to whether the spars, rigging and sails harmonize with the hull, in view of the service to which the vessel may be put, and whether it has sufficient resistance and it, as well as the apparatus for working it, is in sound condition.

3. As to whether the engines and boilers are solidly constructed and in a perfectly serviceable condition, examining the documents which show the time when they were tested and at what pressure.

4. As to whether the bunkers have the proper capacity, determining and stating what it is.

5. As to whether the compartments

per cent. reserve fund, that is to say, *that vessels over twenty years old can in no case be received.*" The Company, through a communication of the same month and year, replied regarding this declaration, manifesting its conformity therewith, and adding that it saw no objection thereto since "it is not among the purposes of the Company to present in substitution of the present steamships, should occasion offer, others that cannot be accepted because they are over twenty years old." (R. O. of February 24, 1890.)

dispuestos y los alojamientos tienen la ventilación, comodidad y capacidad prevenidas en los artículos anteriores y prescripciones vigentes, determinando y expresado el número de todas clases de que son capaces (1).

6.° Y, por último, de si los buques tienen las piezas de respeto de máquinas, según su clase, y de arboladura, velamen y jarcia que deben llevar, y el completo de embarcaciones menores, de los cuales dos deberán ser salvavidas (2), anclas, cadenas, remos, bombas, destiladores de agua dulce y algibes de hierro, expresando su cabida; aparatos contra incendios, medios de salvamento, etc., etc., vajillas, efectos de cámara y demás pertrechos necesarios en buques de tal porte y servicio, instrumentos y cartas de navegación.

31

Concluído el reconocimiento, formará la comisión ó Junta facultativa un estado en que se presente el de las respectivas partes reconocidas y aprobadas, el cual será entregado al Capitán general del Departamento, quien tendrá la facultad de hacerlo ampliar en cualquiera de los puntos que juzgue conveniente, remitiéndolo al Gobierno con las observaciones que crea oportunas.

32

Reconocidos los buques en la forma expresada, se pondrán á su bordo, por lo menos, la mitad del carbón y de la carga de que sean capaces, ó un peso equivalente, y la comisión procederá á las pruebas de navegación. La primera de éstas tendrá lugar con buen tiempo y mar llana, si fuera posible, y en ella han de alcanzar los buques, navegande solamente á máquina, las velocidades indicades en los artículos respectivos, en un período de cuatro ó seis horas, estimándose este andar por marcaciones previamente determinadas, y con una presión de calderas menor que la mitad de la que sufriera en las pruebas de resistencia.

(1) Véase el capítulo II de este mismo Título.

(2) Los Reglamentos del material de salvamento y de respecto que deben llevar los buques mercantes, van insertos al final del capítulo IX, Título tercero.

are well arranged and the accommodations have the ventilation, comforts and capacity, prescribed in the foregoing articles and the regulations in force, determining and stating the number of passengers of all classes they can carry (1).

6. And, lastly, as to whether the vessels have the spare pieces of machinery, according to class, and the spare spars, rigging and sails they should carry, and the complement of small boats, two of which should be life-boats (2), anchors, chains, oars, pumps, fresh water condensers and iron tanks, stating their capacity; fire-extinguishing apparatus, life-saving appliances, etc., etc., table service, stateroom supplies and other stores necessary for vessels of that burden and service, navigating instruments and charts.

31

The inspection finished, the expert commission or board will draw up a statement showing the condition of the respective parts inspected and approved, which shall be delivered to the Captain-General of the Department, who shall have authority to have it amplified upon any points he may deem advisable, transmitting it to the Government with the observations he may consider opportune.

32

The vessels having been inspected in the manner aforesaid, there shall be taken on board at least one-half the coal and cargo they can carry, or an equivalent weight, and the commission will proceed to the speed trials. The first of these shall take place in good weather and smooth sea, if possible, and the vessels must show, under engine power alone, the speeds mentioned in the respective articles, for the space of four to six hours, this speed being arrived at by means of previously designated marks, and under a boiler pressure less than one-half that which would be used in the resistance trials.

(1) See Chapter II of this same Title.

(2) The Regulations as to life-saving appliances and spare stores that merchant vessels should carry are inserted at the end of Chapter IX, Title Third.

En la segunda prueba, con mar y viento, la comisión examinará las condiciones del buque, velocidad, balance, influencia del aparejo, andar del buque ayudado de éste y con sólo el auxilio de la máquina, y el consumo de carbón en uno y otro caso, expresando su clase.

Se probará también la velocidad á diferentes grados de expansión, expresando todas las circunstancias que se crean necesarias para formar una idea exacta del trabajo útil de las máquinas y del servicio que podrá prestar el buque en las navegaciones á que se destina.

33

La comisión formará un estado de ambas pruebas, en el que se detallarán las máquinas en funciones, velocidad obtenida en diferentes circunstancias y condiciones, consumo de combustible, balance, a cuantos datos puedan contribuir á formar conocimiento del buque, anotando al propio tiempo las observaciones que estime convenientes en consideración al servicio que estos vapores han de prestar, asi como las variaciones ó mejoras que convenga introducir, y si el buque debe ó no ser admitido para el servicio.

Este documento será remitido al Gobierno por conducto del Capitán general del Departamento.

34

El Ministerio de Ultramar, en vista de los resultados de los reconocimientos y pruebas de las observaciones de la Junta facultativa y del Capitán general al remitir los estados de que va hecha mención, asi como de lo que deberá informal el Ministerio de Marina, decidirá lo que estime conveniente acerca de la admisión del buque ó buques para el servicio de que se trata.

35

Los buques, sus máquinas, armamentos y demás efectos pertenecientes á los mismos, deberán conservarse constantemente en buen estado de servicio.

36

Para la debida vigilancia y seguridad del complimiento del articulo anterior, nombrará el Capitán general del Departa-

In the second trial, with sea and wind, the commission will examine the qualities of the vessel, velocity, roll, influence of the sails, the speed of the vessel aided thereby and with the assistance of the engines alone, and the coal consumption in each case, stating its kind.

The speed will also be tested at different degrees of expansion, stating all the circumstances that may be thought necessary to form an exact idea of the available power of the engines and of the service the vessel can render on the routes she is to follow.

33

The Commission will draw up a report of both trials, which shall give in detail the condition of the engines in motion, speed obtained under different circumstances and conditions, fuel consumption, roll, and whatever data it can contribute to a knowledge of the vessel, noting at the same time such observations as it may deem advisable as to the service these steamships are to perform, as well as the alterations or improvements it may be expedient to introduce, and whether or not the vessel should be accepted for the service.

This document shall be transmitted to the Government through the Captain-General of the Department.

34

The Ministry of the Colonies, in view of the results of the inspections and tests, of the observations of the expert board and of the Captain-General upon forwarding the reports of which mention has been made, as well as of what the Ministry of Marine may report, shall decide whatever he may consider advisable with regard to the acceptance of the vessel or vessels for the service mentioned.

35

The vessels, their engines, armaments, and other appurtenances of the same, shall be constantly maintained in a good serviceable condition.

36

To insure due vigilance and the enforcement of the foregoing article, the Captain General of the Department of

mento de Cádiz una Junta compuesta de tres personas competentes de los Cuerpos de la Armada, que inspeccione los buques, siempre que lo juzgue oportuno dicha Autoridad, y precisamente en cada cuatro viajes redondos (1).

Del estado en que los encuentre dará la Junta cuenta á aquella Autoridad, para que haga remediar las faltas que tenga ó los abusos que advierta; y si el contratista se negare á cumplir lo que se le ordena, se prohibirá la salida de los buques, quedando aquél responsable de las consecuencias.

El Gobierno podrá disponer, cuando lo estime conveniente, que un Jefe de la Armada pase á inspeccionar el servicio general de las líneas y el particular de los buques; y para estos casos el contratista se obliga á facilitarle pasaje en primera clase y camarote independiente, así como un bote tripulado, del que podrá disponer siempre que lo necesite (2).

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(1) Por R. O. de Ultramar, de 19 de Febrero de 1888, trasladada por Marina en 24 del mismo mes y año, se despone que la inspección de los vapores de la Compañía Transatlántica destinados á los servicios de las líneas de Buenos Aires, Marruecos y Fernando Póo, se verifique en la primera oportunidad que se presente, sin esperar á que sea precisamente cada cuatro viajes redondos, como se expresa en el contrato. Y por otra Real disposición de 5 de Marzo de 1890, se hacen extensivas al Comandante general del Apostadero de la Habana las facultades que el art. 36 del mismo confiere al Capitán general del Departamento de Cádiz, con relación á los reconocimientos de los vapores que prestan servicio en las Antillas, Seno Mejicano y Estados Unidos.

NOTA.—La primera de las citadas disposiciones se halla inserta en el Apéndice á la *Legislación Marítima* del citado año.

(2) La inspeción facultativa á que se refiere este artículo se halla reglamentada por R. O. de 23 de Julio de 1888, y el Inspector y los auxiliares tienen consignadas entre sus obligaciones la de recorrer en toda su extensión, y por lo menos una vez en el espacio de tiempo señalado á sus destinos, las líneas principales que sirve la Compañía.—Navegar con la frecuencia necesaria para vigilar el servicio en la mar bajo los múltiples aspectos que abraza el contrato, y preferentemente, lo que afecta al pasaje militar y á los medios de salvamento.—Dar cuenta al Ministro de Marina de las de-

Cadiz will appoint a board composed of three competent persons from the officers of the Navy to inspect the vessels whenever said authority may see fit, and certainly every four round trips (1).

The board will report the condition in which it finds them to that authority, in order that he may cause the defects therein or the abuses he may notice to be remedied; and should the contractor decline to carry out what he is ordered to do, the departure of the vessels shall be prohibited, the former being held responsible for the consequences.

The Government may order, when it may consider it expedient, that an officer of the Navy proceed to inspect the general service of the lines and the special service of the vessels; and in such cases the contractor binds himself to furnish him first-class passage and a separate stateroom, as well as a manned boat, which shall be at his disposal whenever he needs it (2).

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(1) By R. O. through the Ministry of the Colonies, of February 19, 1888, forwarded by the Ministry of Marine on the 24th of the said month and year, it is provided that the inspection of steamships of the *Compañia Trasatlántica* destined to the service of the Buenos Aires, Morocco and Fernando Po lines shall take place at the first opportunity presenting itself, without waiting for every fourth round trip, as expressed in the contract. And by another Royal Order of March 5, 1890, the authority that Art. 36 of the same confers on the Captain-General of the Department of Cadiz is extended to the Commandant General of the Naval Station of Havana, with respect to the inspection of the steamships performing the service in the West Indies, Gulf of Mexico and the United States.

NOTE.—The first of the orders cited is to be found inserted in the Appendix to the *Legislación Marítima* of the said year.

(2) The expert inspection to which this article refers is governed by R. O. of July 23, 1886, and the inspector and his assistants have designated among their obligations the duty to go over the entire length of the principal lines served by the Company, at least once during the time of their detail. To take ship with the frequency necessary to watch the service at sea under the many features the contract embraces, and preferably, whatever affects military transportation and life-saving means. To report to the Minister of Marine the deficiencies, if any, in said service, suggesting the

37

Si se encontrase que por cualquier accidente el casco, máquinas ó calderas habian sufrido una avería que no permitiere al buque navegar con seguridad, tendrá facultad el Capitán general del Departamento para detener el vapor, dando cuenta al Gobierno, y no se permitirá que haga el viaje sin que antes se remedie completamente la avería, á satisfacción de la Junta, que lo reconocerá al efecto.

Iguales facultades ejercerán en todo los Comandantes generales de los Apostaderos de la Habana y Filipinas, si las averías tuvieren que remediarse en aquellos puertos.

38

Los Capitanes de los buques la obligación de presentar los cuadernos de bitácora y de vapor siempre que se les pidan por las Autoridades de Marina en los puertos extremos de la línea, á fin de que el Gobierno pueda informarse, cuado lo crea conveniente, de la regularidad, exactitud y diligencia con que se verifica el servicio, y exigir la responsabilidad á que hubiese lugar. Los referidos cuadernos deberán llevarse del mismo modo que en los buques de guerra (1).

37

Should it be found that through any accident the hull, engines or boilers had suffered an injury, preventing the vessel from proceeding with safety, the Captain-General of the Department has authority to detain the steamship, reporting the fact to the Government, and it will not be permitted to make the voyage without first having completely repaired the damage to the satisfaction of the board, which shall inspect it for the purpose.

A like authority shall be exercised by the Commandants General of the Naval Stations of Havana and the Philippines, should the damages have to be repaired in those ports.

38

The Captains of the vessels are bound to present their logbooks and steam logs whenever requested by the Marine authorities in the terminal ports of the line, so that the Government may inform itself, when it deems it advisable, of the regularity, accuracy and diligence with which the service is conducted, and place responsibility where it belongs. The said books must be kept the same as those on board warships (1).

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ficiencias, si las hubiere, en dichos servicios, indicando los medios propios para corregirlas, y haciendo llegar á noticia del de Ultramar, por el conducto debido, todas las infracciones del contrato ajenas á la inspección facultativa que les está encomendada.—Investigar si el trato del pasaje se ha ajustodo á lo que previenen el Reglamento interior de los buques-correos y la R. O de 12 de Enero de 1867, para el pasaje militar.—Y dar cuenta á quien corresponda, según el contrato, de las quejas que aparezcan en el libro que al efecto existe en cada buque.

NOTA.—Por R. O. de 23 de Abril de 1891, ha sido disuelta la mencionada inspeción facultativa, nombrándose en su lugar la Junta de que trata el art. 36 de este contrato.

(1) Por R. O de 8 de Agosto de 1888, se dispone se circule á los Capitanes de los vapores de la línea de Filipinas la conveniencia de hacer constar en el diario de navegación de cada viaje, y como resumen final, el tiempo exacto de navegación empleado, y si el viaje se verificó á favor ó en contra monzón, justificando además haber realizado la travesía con los fondos sucios en los casos en que esto tenga lugar.

NOTA.—La R. O. citada se halla inserta en el Apéndice á la *Legislación Marítima* del indicado año.

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proper means to correct them, and bringing to the notice of the Minister of the Colonies, through the proper channels, all violations of the contract outside the expert inspection confided to them. To investigate whether the treatment of passengers conforms to the provisions of the internal regulations of mail steamers and the R. O. of January 12, 1867, on military passengers. And to report to the proper person, pursuant to the contract, the complaints appearing in the book kept for such purpose on each vessel.

NOTE.—By R. O. of April 23, 1891, the said expert inspection has been done away with, the board of which Art. 36 of this contract treats being named in its place.

(1) By R. O. of August 8, 1888, it is provided that the captains of the steamships on the Philippine line be advised of the expediency of setting down in the log of every voyage, and as a final resumé, the exact sailing time employed, and whether the voyage was before or against a monsoon; setting forth moreover that the trip was made with foul bottoms, in case where this is a fact.

NOTE.—The R. O. cited is to be found inserted in the Appendix to the *Legislación Marítima* for the year mentioned.

39

Siempre que no resultare perjucio para los trabajos urgentes de los buqnes de guerra, los vapores del contratista, previo permiso de la Autoridad de Marina, serán admitidos, para sus reparaciones, en los Arsenales, diques ó varaderos del Estado, mediante el pago de los gastos que ocasionaren.

40

Los vapores se hallarán sujetos á las disposiciones que rijan sobre sanidad y policía marítimas, como cualesquiera otros buques nacionales, en todo aquello que no se encuentre expresamente determinado en este pliego de condiciones.

De la tripulación

41

La tripulación de los buques corresponderá á la cabida y condiciones de los mismos y al mejor servicio.

Los Oficiales y tripulantes de los barcos correos serán españoles, y lo serán también, hasta donde sea posible, los maquinistas.

La Junta á que hace referencia el art. 36 ejercerá su inspección sobre este punto, dando cuenta por el conducto debido de las faltas que en él observe al Ministerio de Ultramar.

42

El contratista se compromete á admitir gratuitamente en cada buque, si el Gobierno lo exigiere, dos aprendices de maquinista.

De la conducción de la correspondencia y de las personas encargadas de su custodia.

43

La conducción de la correspondencia pública y privada, entre los puntos extremos ó intermedios de los viajes, se hará en los vapores bajo la responsabilidad directa del contratista, sin más abono que el de la subvención general de la línea.

44

Para los fines de este contrato, se entenderá como correspondencia pública y oficial todo saco, caja ó paquete de cartas, periódicos, libros impresos y los demás objetos que son transmisibles, con arreglo

39

Whenever urgent work on warships is not interfered with, the steamships of the contractor, by obtaining permission of naval authority, will be admitted for repairs to the navy yards, dry docks or graving slips of the Government, subject to the payment of the expenses incurred.

40

The steamships are subject to the same maritime, health and police regulations in force as other national vessels, in everything not expressly set forth in this instrument of conditions.

Of the crew.

41

The crews of the vessels shall be in keeping with the capacity and conditions of the same and their best handling. Officers and men of the mail ships shall be Spaniards, as shall also be, as far as possible, the engineers.

The board to which Art. 36 refers shall make their inspection cover this point, reporting, through proper channels, the violations thereof to the Ministry of the Colonies.

42

The contractor binds himself to take gratuitously on each vessel, should the Government require it, two machinists' apprentices.

Of the carrying of mails and of the persons entrusted with their custody.

43

The transportation of public and private mail matter, between the terminal or way ports of the trips, shall be done on the steamships under the direct responsibility of the contractor, without any bonus other than the general subvention of the line.

44

For the purpose of this contract every bag, box or package of letters, newspapers, printed books and other articles which are forwardable pursuant to the Postal Laws, without reference to the place of

á la legislación de Correos, sin atender al punto de destino ni de origen, así como los sacos y cajas vacías y otros efectos que se destinen ó hayan destinado á transportar la correspondencia ó se envíen á la Administración de Correos. Además de la correspondencia, la Empresa se obliga á transportar, sin más abono que el de la subvención de la línea, caudales, valores ó pastas para la acuñación de moneda y especies metálicas pertenecientes al Estado.

45

Los Capitanes de los buques recogerán por sí mismos la correspondencia de las Administraciones respectivas de Correos, la custodiarán en la forma que la reciban y la entregarán en la Administración á que vaya destinada.

De la correspondencia certificada se harán cargo nominalmente, firmando su recibo en la Administración que remite y entregándola en el punto de su destino con igual formalidad.

46

El Gobierno, si lo juzga conveniente, podrá en todo tiempo confiar el despacho de la correspondencia que se cursase por estas líneas á los funcionarios del ramo de Correos, sin perjuicio de los debres que, conforme á este pliego, corresponden á la Empresa. Para tal caso queda obligado el contratista á señalar á dichos funcionarios su pasaje gratuito en camarote de primera clase, y además un local seguro, cerrado con llave, para el desempeño de su cometido, y otro, también cerrado, para la custodia de la correspondencia. Tendrán asimismo á su disposición dichos funcionarios un bote convenientemente tripulado para las necesidades del servicio.

Las demás exigencias de éste se determinarán por un Reglamento especial, hecho de acuerdo con la Empresa.

47

En el caso de que por accidente sufrido en alguno de los buques de la Empresa, el viaje empezado no pudiera concluirse, los Capitanes y Agentes de aquélla cuidarán de asegurar el transporte de la correspondencia á los puertos de su destino por

destination or of origin, is understood to be private or official correspondence, as are also the empty pouches and boxes and other receptacles that are employed or may be employed in transporting the correspondence or are sent to the Post Office. The Company binds itself to transport, besides the correspondence, and without any bonus other than the subsidy of the line, money, values and bullion for the coinage of money and metallic specie belonging to the State.

45

The Captains of the vessels shall themselves collect the correpondence from the several post offices, shall keep it in custody in the form which it is received, and shall deliver it to the office to which it is addressed.

They shall take charge of the registered mail, signing for its receipt at the forwarding office, and delivering it at its destination with like formality.

46

The Government, should it deem it advisable, may at all times entrust the forwarding of the correspondence carried by these lines to the postal employees without prejudice to the duties which, pursuant to this instrument, attach to the Company. In such case the contractor is bound to furnish the said employees a free passage in a first-class stateroom, and, moreover, a safe place, under lock, for the discharge of his trust; and another, also under lock, for the custody of the correspondence. The said employees shall also have at their disposal a properly manned boat for the needs of the service.

The other requirements of the service shall be determined by special regulations, made by agreement with the Company.

47

When, through any accident suffered by any of the Company's vessels, a voyage entered upon cannot be completed, the Captains and agents thereof shall take care to insure the forwarding of the correspondence to the ports of destination

los medios más expeditos que estén á sus alcances.

48

Queda prohibido el transporte de otra clase de correspondencia que la que proceda de la Administración pública española.

Cualquiera infracción en esta punto, así como de las disposiciones vigentes, sobre transporte é inviolabilidad de la correspondencia, serán castigadas con areglo á las Leyes.

De los servicios comerciales y de los transportes de pasajeros, mercancías y material del servicio del Estado

49

La Empresa podrá efectuar en sus buques toda clase de transportes de pasajeros y mercancías y hacer todas las operaciones de comercio que no perjudiquen á los servicios que debe prestar al Estado, siendo sus productos propiedad de la Empresa concesionaria.

El contratista someterá á la aprobación del Ministerio de Ultramar las tarifas que han de regir desde los puertos de España á los demás que visiten los buques, y viceversa.

Estas tarifas serán establecidas sobre las bases siguientes:

Ni las de pasaje, ni las de carga entre España y los puertos que visiten los buques y viceversa podrán exceder de las que para iguales destinos rijan ordinariamente en servicios postales extranjeros paralelos.

Para los puertos servidos en combinación, deberán ser inferiores en un 10 por 100. Cuando la demora que ocasione el transbordo que deban sufrir los pasjeros con destino á puertos servidos por combinación en el puerto de escala donde éste se efectúe, exceda de tres días, el concesionario, si el pasajero lo pidere, deberá conducirle por su cuenta al puerto extranjero en que más inmediatamente toque la línea que sirva directamente el de su destino.

Los precios de pasaje y carga de y para España no serán nunca superiores á los que el contratista tenga para el extranjero.

Para conciliar los intereses del Estado y del concesionario, el Gobierno mandará

by the most expeditious means within their reach.

48

The transportation of correspondence of any kind other than that proceeding from the Spanish Government offices is hereby prohibited.

Any violation of this provision, or of existing laws relating to the transportation and inviolability of correspondence, shall be punished according to law.

Of commercial services and the transportation of passengers, merchandise, and Government property.

49

The Company may employ its vessels in the transportation of all manner of passengers and merchandise, and engage in all trade operations which shall not be prejudicial to the services it must render the State, the proceeds thereof being the property of the concessionary Company.

The contractor shall submit for the approval of the Ministry of the Colonies the tariffs to be put into effect between the ports of Spain and the others its vessels may visit, and *vice versa*.

These tariffs shall be drawn up upon the following basis:

Neither the passenger nor the freight rates between Spain and the ports visited by the vessels, and *vice versa*, shall exceed those which are charged ordinarily for the same points by parallel foreign mail lines.

For ports served through connections they shall be less by ten per cent. When the delay occasioned by the transhipment of passengers bound to ports served by connections at the way port where the connection must be made exceeds three days, the concessionary, should the passenger so desire, must, at its own expense, transport him to the nearest foreign port where the lime carrying him directly to his destination touches.

The passenger and freight rates to and from Spain shall never be higher than those the contractor charges for foreign service.

In order to reconcile the interests of the Government and the concessionary, the

revisar anualmente las tarifas y resolverá, teniendo en cuenta la contabilidad de aquél y su estado económico.

También tendrá el Gobierno el derecho de rebajar las tarifas, aunque se mantengan dentro de las condiciones de este artículo, pero las que nuevamente se establezcan no serán obligatorias para la Compañía hasta que las líneas produzcan el excedente de que trata el artículo 7.º

El contratista se obliga á transportar, por un 50 por 100 de sus tarifas, aquellos artículos cuyo desarrollo ó movimiento quiera fomentar el Gobierno, dentro de los límites siguientes:

A las Antillas, anualmente, hasta	1.000	toneladas
De las Antillas	1.000	"
A Filipinas	500	"
De Filipinas	500	"

Los productos que deban gozar de esta ventaja erán designados por el Gobierno al principio de cada año, y los remitentes serán atendidos por la Compañía según el orden en que hubiesen solicatado el embarque de las mercancías, y en igualdad circunstancias, á prorrata de sus pedidos.

50

La Compañía se compromete á montar un servicio relacionda con todas líneas regulares extranjeras, que por la vía más rápida posible le permita expedir pasajeros y dar conocimiento para todas los puertos del mundo visitados por líneas marítimas regulares.

Todos los Agentes de la Compañía, que serán españoles, estarán provistos de muestrarios de productos de la Península y sus posesiones de Ultramar, y de notas de precios de los mismos. Estos muestrarios serán suministrados por el Gobierno á la Compañía.

Los Agentes estarán obligados á efectuar al tipo y condiciones usuales el seguro de las mercancías de cuya condución se encargue la Compañía, á transmitir á los productores de los géneros que aparezcan en los muestrarios los pedidos de los mismos que se le dirijan; á gestionar el reembolso del importe de los géneros ven-

Government shall order an annual revision of the tariffs, and shall reach a decision bearing in mind the accounts of the concessionary and its financial condition.

The Government shall also have the right to reduce the tariffs, although they shall be within the requirements of this article; but such as are newly established shall not be obligatory upon the Company until the lines shall yield the surplus to which Art. 7 refers.

The contractor binds himself to transport, at 50 per cent. of its tariff rates, such articles the development of or trade in which the Government desires to encourage, within the following limits:

To the West Indies, annually, up to	1,000	tons.
From the West Indies	1,000	"
To the Philippines	500	"
From the Philippines	500	"

The products which are to enjoy this privilege shall be designated by the Government at the beginning of each year, and the shippers shall be recognized by the Company in the order in which they shall have requested the shipment of their merchandise, and when several similar shipments are requested to apportion space *prò rata*.

50

The Company binds itself to furnish a service connected with all regular foreign lines, which shall by the most rapid route permit it to carry passengers and invoice to all the ports of the world visited by regular maritime lines.

All the agents of the Company, and they shall be Spaniards, must be furnished with collections of samples of the products of the Peninsula and its colonial possessions, together with the prices thereof. These collections will be furnished to the Company by the Government.

The agents are bound to insure, at the usual rates, and under the prevailing conditions, the merchandise which shall be entrusted to the Company for transportation; to transmit to the producers of the articles appearing in the collections, the orders for the same that may be addressed to them, and to negotiate for reimburs-

didos dentro de las condiciones de cambio más ventajosas posibles para el productor.

El concesionario quedará en libertad de adoptar las precauciones que considere necesarias para precaverse de la falta de solvencia en que pudieran incurrir las personas con quienes trate.

Los Agentes deberán hacer llegar á la Compañía, y ésta al Gobierno, cuantos noticias juzguen conducentes al desarrollo de la producción nacional.

En el transporte de mercancías, el concesionario concederá la preferencia, en iguales condiciones, á los embarques del comercio español, siempre que el pedido del hueco haya sido hecho á sus Agentes con la anticipación debida, dentro de los plazos que el contratista señale.

51

El precio de pasaje de los emigrantes de España será siempre 10 por 100 más bajo para nuestras colonias que para los países extranjeros.

Para favorecer el desarrollo de determinadas corrientes de emigración, la Compañía, á propuesta del Gobierno, embarcará con una rebaja de 20 por 100 sobre sus tarifas ordinarias el número de emigrantes que á continuación se expresan:

500 anuales entre España y sus Antillas, y

500 idem. id. y Filipinas.

Si el Gobierno quisiera favorecer en Cuba la inmigración negra ó asiática, rebajará el contratista el 15 por 100 de sus tarifas.

52

En la línea de Marruecos, en épocas de ferias y fiestas, el contratista se comprometerá á transportar por el 10 por 100 de sus tarifas hasta 2.000 súbditos marroquíes, escalonándolos en la medida que permita la cabida de los buques.

Los Agentes comerciales á quienes el Gobierno juzgara oportuno conceder pasaje en los líneas objeto de este concesión, disfrutarán el beneficio de la tarifa oficial.

53

El Gobierno podrá disponer de la

ing the producer for the value of the goods sold under the most advantageous conditions of exchange possible.

The concessionary is at liberty to adopt such precautions as he may consider necessary to save himself from the effects of the insolvency of persons with whom he may deal.

The agents shall make known to the Company, and the latter to the Government, all information which they may deem conducive to the development of national production.

In the transportation of merchandise the concessionary shall give preference, under like conditions, to the shipments of the Spanish trade, provided that the request for space shall have been made to his agents in due time and within the period designated by the contractor.

51

The passenger rates for emigrants from Spain shall always be 10 per cent. less to our colonies than to foreign countries.

In order to favor the development of certain currents of emigration, the Company, at the request of the Government, shall embark at a rebate of twenty per cent. on its ordinary tariffs the number of emigrants below mentioned:

500 annually from Spain to its West Indies, and

500 annually from Spain to the Philippines.

Should the Government desire to favor negro or Asiatic immigration into Cuba, the contractor shall make a rebate of fifteen per cent.

52

During festival and feast occasions the contractor binds himself to carry on the Morocco line at ten per cent. of its tariff rates, up to 2,000 Morocco subjects, scaling them in proportion to the capacity of the vessels.

Commercial travelers, whom the Government shall deem it proper to give passage on the lines covered by this concession, shall enjoy the benefits of the official tariff.

53

The Government shall have the dispo-

cuarta parte de las plazas destinadas á bordo de los buques para pasajeros, con el fin de transportar á todos los individuos activos y licenciados del Ejército y Armada, y á todos los funcionarios de las demás carreras del Estado que destine á las provincias y posesiones de Ultramar ó puertos del extranjero, ó que regresen de unos á otros; á los licenciados de establecimientos penales, y á los individuos que á ellos sean conducidos; á las hermanas de la Caridad y á los misioneros que se dirijan de que unos á otros territorios españoles; á los deportados; á los náufragos, y á los pobres que se hallen bajo el amparo de la autoridad; y, finalmente, á las mujeres, hijos y madres viudas de los Jefes y Oficiales del Ejército y Armada, de los funcionarios públicos que quedan expresados, y de los individuos de la Guardia Civil que se hallen en el mismo caso.

El Gobierno, avisando con quince días de anticipación, podrá disponer hasta de la tercera parte de las plazas destinadas á bordo de los buques para pasajeros, con el fin de transportar á todos los individuos que quedan mencionados.

Los precios de transporte para todos los pasajes de las personas mencionadas serán inferiores á los señalados en las tarifas generales del contratista, los de primera y segunda clase en un 30 por 100; los de tercera de Cuba en un 60 por 100, y los de las otras líneas en un 35 por 100 respecto de los puertos visitados por los buques correos. En cuanto á los puertos que figuren en los servicios combinados, la rebaja será solamente de un 20 por 100 para todas las clases.

Si el contratista estableciera diferentes categorías de primera, el Gobierno determinará asimismo el pasaje correspondiente á cada una.

54

El Gobierno se obliga á transportar á todas las personas de las clases mencionadas, por los buques de la Empresa siempre que con arreglo á las disposiciones vigentes en la materia haya de abonarles ó anticiparles pasaje por cuenta del Estado, pues de verificarlo por cuenta propia, quedarán libres de dirigirse á sus destinos por la vía que más les convenga.

sition of one-fourth of the space provided on board the vessels for passengers for the purpose of transporting all active and discharged men of the army and navy, and all the officials in the other services of the State that it may detail to the colonial provinces and possessions and to foreign ports, or who may return from either; to the discharged from penal settlements and to those being conducted thither; to sisters of charity and the missionaries bound to any of the Spanish territories; to the deported; to the shipwrecked and to the poor under the protection of the Government; and, finally, to the wives, children and widowed mothers of the officers of the army and navy, of the public officials above mentioned and of the members of the Civil Guard who are in similar conditions.

The Government, by giving a fifteen days' notice, may have at its disposal one-third of the space provided on board of the vessels for passengers for the purpose of transporting all the persons above mentioned.

The rates for all the persons mentioned shall be less than those designated on the general tariffs of the contractor by thirty per cent. for first and second class, by sixty per cent. for third class to Cuba, and on the other lines by thirty-five per cent., according to the ports visited by the mail steamers. As regards the ports figuring in the connecting service, the rebate shall only be twenty per cent. for all classes.

Should the contractor establish different grades in the first-class passage, the Government shall likewise determine the rate corresponding to each.

54

The Government binds itself to transport all the persons of the classes mentioned by the vessels of the company whenever, under the provisions of law in force in the premises, it shall have to furnish or advance their passage at public expense, since, should they travel at their own expense they would be free to go to their destination by whatever route best suiting their convenience.

Des esta obligación quedará el Gobierno exento en casos de urgencia extraordinaria en que la Compañía no pudiera habilitar, con la perentoriedad que se le exija, el número de barcos ó plazas que se necesiten para los transportes oficiales.

No se entenderá infringida esa obligación por el hecho de que el Gobierno, utilizando los barcos de guerra, conduzca armamentos ó pertrechos militares, y aun tropas si el interés del Estado lo hiciese necesario.

55

El trato y manutención de los sargentos, soldados y marineros transportados, serán los que se designan en la R. O. de 12 de Enero de 1867 (1).

Desde Suez á Manila, en los viajez de ida y vice-versa, se les dará además dos ó tres refrescos de limón al día.

56

En los precios señalados en el art. 53, quedan comprendidos el pasaje y la manutención que deberá facilitar el contratista á las tropas con sus Jefes y Oficiales, siempre que por orden del Gobierno se trasladen desde los puertos del litoral de la Península en que se hallan establecidos los depósitos de bandera para Ultramar, al punta en que esté surto el buque que haya de conducirles á las islas de Cuba, Puerto Rico y Filipinas. El contratista no podrá aplazar el transporte, y desde el momento en que se le notifique hallarse listos los individuos para embarque, deberá aprovechar para él la primera oportunidad, que nunca dilatará más de quince días, exceptuados los casos de fuerza mayor bien justificada.

57

Durante la estancia en el puerto de salida de los individuos del Ejercito á que se refiere el artículo anterior, hasta su embarque en el vapor que primero salga, será de cuenta del contratista la manutención, pero no el alojamiento. Este deberán facilitarlo las Autoridades militares hasta la salida del referido buque.

(1) Véase el Reglamento para la manutención de los pasajeros de tercera clase inserto en la página 220.

The Government is released from this obligation in cases of extraordinary urgency when the Company cannot prepare with the promptness demanded the number of vessels or spaces required for official transportation.

The fact of the Government utilizing warships for the transportation of arms or military stores, and even of troops, should the interest of the State render it necessary, shall not be considered an infringement of this obligation.

55

The treatment and subsistence of the sergeants, soldiers and sailors transported shall be those designated in the R. O. of January 12, 1867 (1).

From Suez to Manila, on the outgoing and incoming trips, they shall be furnished extra two or three lemon refreshments a day.

56

The rates mentioned in Article 53 shall include the passage and subsistence which the contractor must furnish to the troops with their officers, whenever by order of the Government they shall be transferred from the ports on the coast of the Peninsula where the military depots for the colonies are situated to the point where the vessel which is to conduct them to the Islands of Cuba, Puerto Rico and the Philippines is anchored. The contractor shall not delay the transportation, and from the moment in which he is notified that the troops are ready for embarkation, he must improve the first opportunity therefor, which shall never last more than fifteen days, save in case of well proven *force majeure*.

57

During the stay in the port of departure of the military troops to which the foregoing article refers, and until their embarkation on the first vessel leaving, their subsistence shall be at the expense of the contractor, but not their lodgment. This latter should be furnished by the military authorities until the said vessel sails.

(1) See the Regulations for the subsistence of passengers of the third class inserted on page 220.

Cesará para el contratista la obligación de mantener en el puerto de salida á los individuos del Ejército y Armado, si por enfermedad ó por cualquiera otras causas se quedaren en tierra al verificarse la expedición que debiera conducirlos.

Los gastos de cuarentena de los pasajeros oficiales y la manutención de los mismos durante este perído serán de cuenta exclusiva del concesionario.

58

En cada buque se llevará un libro-registro para recibir en él las quejas de los pasajeros referentes al servicio de los mismos, con relación al reglamento que el contratista queda obligado á formular respecto al trato que deba darse á aquéllos y orden y policía de cámaras, alojamientos y camareros, del cual facilitará al Ministerio de Ultramar 50 ejemplares é igual número al de Marina, dentro del primer mes del servicio, sometiendo antes el proyecto al primero de los dos Ministerios para su aprobación ó reforma (1).

La Junta de vigilancia de que trata el art. 36 examinará dichas quejas, y si estima que son dignas de consideración, dará cuenta de ellas al Ministerio de Ultramar.

59

La Empresa se obliga á recibir á bordo de sus buques hasta la décima parte del tonelaje disponible para carga, ó sea neto, en cada uno, en armas, pertrechos y toda clase de material del servicio del Estado. En los fletes de estos efactos se hará por el contratista una rebaja de 30 por 100 de los precios marcados en las tarifas adoptadas para el público.

El Gobierno se obliga á transportar en los buques de la Empresa todo el material del Estado que se expida de ó para las provincias de Ultramar, salvas las limitaciones que contiene el art. 54.

60

Cuando por disposición del Gobierno se embarcasen municiones de guerra, el contratista podrá exigir que en conduc-

(1) El Reglamento de referencia va inserto en el primer Apéndice de este mismo capítula I.

If through sickness or any other causes the men of the army or navy should remain on land upon the sailing of the expedition which should carry them, the obligation of the contractor to subsist them in the port of departure shall cease.

The quarantine expenses of official passengers and the subsistence of the same during this period shall be exclusively chargeable to the concessionary.

58

Each vessel shall carry a record book wherein shall be noted the complaints of passengers with respect to the treatment of the same, pursuant to the regulations which the contractor is bound to draw up regarding the treatment to be accorded the passengers and the order and policing of staterooms, berths and stewards, of which the Ministry of the Colonies shall be furnished 50 copies and the Ministry of Marine an equal number, within the first month of the service, first submitting the original to the former of the two Ministries for its approval or amendment (1).

The board of inspection referred to in Art. 36 shall examine the said complaints, and should it deem them worthy of consideration shall report the same to the Ministry of the Colonies.

59

The Company binds itself to receive on board of its vessels up to one-tenth part of the available freight tonnage, or net tonnage, on each vessel in the way of arms, stores and all kinds of material for the public service. The contractor shall make a rebate of thirty per cent. on the prices given in the tariffs adopted for the public for these articles.

The Government binds itself to transport on the vessels of the Company all public property which may be sent to or from the colonial provinces, save the limitations contained in Art. 54.

60

When by order of the Government munitions of war shall be taken on board the contractor may require that their

(1) The regulations referred to are inserted in the first Appendix to this same chapter I.

ción y envase se efectúe en la forma y con las precauciones necesarias para evitar exposiones y siniestros.

61

Sean cualesquiera los precios de las tarifas y las deducciones que en ellas deban hacerse á favor del Estado, la conducción del tabaco que desde Filipinas, Cuba, Puerto Rico ú otros puertos de América haya de trasladarse á la Península, con destino á las fábricas nacionales, no podrá costar al Estado en ningún caso más que 10,65 pesetas cada quintal (castellano), conducido desde Filipinas, y 8 pesetas cada uno de los que embarquen en América. Si se llegare á realizar el arrendamiento del monopolio de fabricación y venta del tabaco, el contratista no estará obligado á valerse para el transporte de aquél de los buques de la Compañía, ni ésta tampoco á hacerlo al contratista en las mismas condiciones señaladas al Estado.

De la fianza

62

Los buques destinados á este servicio, sean ó no propiedad del contratista, quedarán especialmente obligados y afectos al cumplimiento del contrato, sin que en ningún caso, ni por concepto, pueda aquél hacerlos responsables de ninguna otra obligación ni crédito.

Al efecto, el contratista, al presentar los buques en los plazos que señalan los arts. 22, 23 y 24, declarará que no se hallan previamente hipotecados, ni gravados, ni dados en garantía en cualquier forma en el reino ó en el extranjero en daño del servicio, obligándose á mantenerlos así todo el tiempo de duración del contrato, cuya declaración llevará consigo la oportuna declaración civil y criminal para el caso de resultar falsa. Al mismo fin se admitirá en cualquier tiempo, á quien quiera que la presente, la justificación del gravamen de dichos buques, anterior ó posterior á la época de su presentación, mediante la cual se exigirá al contratista la responsabilidad correspondiente.

En el caso de que los buques no sean propiedad del contratista, tendrá éste ob-

transportation and packing shall be done in the manner and with the necessary precautions to avoid explosions and disaster.

61

Whatever may be the tariff rates and the reductions thereof made for the Government, the transportation of tobacco from the Philippines, Cuba, Puerto Rico and other ports of America intended for the national manufactories, shall in no case cost the Government more than 10.65 *pesetas* per quintal (Spanish) when brought from the Philippines, and 8 *pesetas* when shipped from America. Should the farming out of the manufacture and sale of tobacco be realized, the contractor therefor shall not be bound to make use of the vessels of the Company for the transportation of the latter, nor shall the Company be compelled to carry it for the contractor under the same conditions as for the Government.

Of the bond.

62

The vessels devoted to this service, whether or not owned by the contractors, shall be especially bound and held to the performance of the contract, without, in any case, or under any circumstances, his having the right to make them security for any other obligation or loan.

To this end the contractor on furnishing the vessels within the terms designated in Articles 22, 23 and 24, shall declare that they are not previously mortgaged, or encumbered, or held as security in any way in the Kingdom or abroad to the detriment of the service; binding himself to so keep them during the whole life of the contract, which declaration shall carry with it civil and criminal liability, should it result false. To this same end, proof of an encumbrance on said vessels before or after their presentation will be accepted at any time, pursuant to which the contractor will be held to strict accountability.

In case the vessels are not owned by the contractor, the latter is bound to pre-

ligación de presentar al Gobierno copia de la escritura que haya celebrado con el dueño. Esta escritura habrá de contener necesariamente la cláusula de que el propietario conoce en toda su extensión y acepta por su parte las condiciones con que el contrato se hace, renunciando sus derechos en todo cuanto éstos puedan hacerlas ineficaces.

En el caso de falti parcial ó total de lo estipulado, ó de interrupción total ó parcial del servicio por culpa del contratista, el Gobierno se apoderará del buque ó buques que estén destinados al mismo servicio ó que hayan sido admitidos con el propio objeto, y con dichos buques lo ejecutará la Administración á cargo y por cuenta del concesionario.

Éste garantizará, además, el cumplimiento de lo pactado, consignando en la Caja general de Depósitos, ó en el Banco de España, 8.500.000 pesetas en matálico ó en efectos públicos del Estado, al tipo que las disposiciones vigentes les atribuyan para la constitución de fianzas.

63

El depósito mencionada quedará reducido á 1.275.000 pesetas, cuando todos los buques de las líneas estén en servicio; esta reducción se hará proporcionalmente, según vayan siendo admitidos los vapores de la Compañía.

De los casos extraordinarios y de guerra

64

En casos de guerra marítima ó de hostilidades en algunos de los mares ó puertos visitados por la Compañía, el Gobierno será responsable de las eventualidades que pudieran resultar de dicha guerra, á no ser que haya dejado á aquélla en libertad de suspender el servicio ó de no tocar en los puertos donde hubiere hostilidades.

En el caso de suspenderse el servicio, el tiempo transcurrido desde la suspensión hasta su nuevo establecimiento se comprenderá ó no en la duración del contrato, á elección de la Empresa.

Suspendido el servicio, el Estado podrá tomar posesión de los buques con su material y pertrechos, haciéndose de todo un avalúo por una comisión, compuesta

sent to the Government a copy of the instrument he shall have entered into with the owner. This instrument must necessarily contain a clause showing that the owner is fully acquainted with, and accepts on his part, the conditions of the contract, relinquishing his rights in so far as the latter shall render the former inoperative.

In case of partial or total failure to perform what is stipulated, or of a partial or total interruption of the service through fault of the contractor, the Government shall take possession of the vessel or vessels that may be employed in the service or which may have been accepted for the purpose, and shall continue the same with said vessels at the expense of the concessionary.

The latter shall, moreover, guarantee the performance of what is stipulated, by depositing in the General Trust Deposit or in the Bank of Spain 8,500,000 *pesetas* in coin or in Government securities at the rate that existing laws give them for the furnishing of security.

63

The said deposit shall be reduced to 1,275,000 *pesetas* whenever all the vessels of the line are in service. This reduction to be made in proportion as the steamships of the Company are accepted.

Of extraordinary cases and of war.

64

In the event of naval war or of hostilities in any of the seas or ports visited by the Company, the Government shall be responsible for the contingencies that may result from such war, unless it shall have left the former at liberty to suspend the service or to not call at the ports where hostilities are in progress.

In case the service is suspended, the time elapsing from the suspension to the resumption of the service may or may not be included within the contract term, at the election of the Company.

The service once suspended, the Government may take possession of the vessels with their supplies and stores, an appraisement being made of all by a com-

de dos personas elegidas por el Gobierno y dos por el contratista.

Estos individuos, por mayoría de votos, designarán una quinta persona, en quien recaerá la presidencia; y en caso de empate en la designación, decidirá la suerte de entre los individuos compredidos en una lista formada de común acuerdo.

A la terminación de la guerra serán devueltos al contratista los buques con su material, previa la indemnización á que diera lugar su menor valor, á juicio de la expresada comisión.

El Gobierno pagará á la Empresa, durante el tiempo que tenga á su servicio los buques, el 5 por 100 del capital que éstos representen, según el juicio de la citada comisión. Todo otro pago quedará suspendido durante la interrupción del servicio por la Empresa.

65

Si el Gobierno no usare la facultad que le corresponde en virtud del párrefo tercero del precedente artículo, abonará á la Empresa, desde el día en que cerrare el servicio hasta la terminación de la guerra, el interés de un 5 por 100 del capital que representen los buques y pertrechos, según avalúo de la comisión.

66

Al terminar la guerra, el Ministerio de Ultramar, oyendo al Consejo de Estado, podrá relevar á la Empresa del cumplimiento del contrato si los acontecimientos de aquélla la hubiesen colocado en la imposibilidad de continuar el servicio.

67

En circunstancias políticas extraordinarias, y sin que ocurra el caso de guerra marítima, el Gobierno podrá fletar uno ó varios buques de la Empresa.

Cuando esto tengar lugar, la indemnización á que la Empresa fuere acreedora será justiprecida por la comisión que se menciona en el art. 64.

Si el Gobierno dispusiera de más de un buque, el contratista no estará obligado á hacer el número de viajes estipulado en el

mission composed of two persons selected by the Government and two by the contractor.

These parties by a majority vote shall designate a fifth party, who shall be the chairman; and in case of a tie in the vote the matter shall be decided by lot from among the persons named on a list made up by common agreement.

At the termination of the war the vessels with their belongings shall be returned to the contractor, after payment of the indemnity that may be due by reason of their diminished value in the opinion of the said commission.

The Government shall pay to the Company, during the time it has vessels in its service, five per cent. of the capital they represent, according to the judgment of the said commission. All other payments shall be suspended during the interruption of the Company's service.

65

Should the Government not exercise the authority attaching to it by reason of the third paragraph of the preceding article, it shall allow the Company from the day on which it stops the service to the close of the war five per cent. interest on the capital the vessels and stores represent, as per the appraisement of the commission.

66

Upon the termination of the war the Ministry of the Colonies, after hearing the Council of State, may relieve the Company of the performance of the contract should the casualties of the war have incapacitated it from continuing the service.

67

Under extraordinary political conditions, and though there be no naval war, the Government may charter one or several of the Company's vessels.

In this event the indemnity to which the Company shall be entitled shall be estimated by the commission referred to in Art. 64.

Should the Government take more than one vessel the contractor shall not be bound to make the number of trips stipu-

contrato; un arreglo especial, hecho de común acuerdo, fijará entonces las alteraciones que se hayan de hacer en el número y época de los viajes. Esto mismo tendrá lugar cuando por cuaso de guerra el Estado se hubiese incautado de los barcos de la Empresa y el terminar aquélla no devolviese todos los que había recibido ó los volviese inútiles para prestar los servicíos del presente contrato.

lated in the contract. A special arrangement made by common accord shall then establish the changes that are to be made in the number and dates of the trips. The same shall be the case when by reason of war the Government takes possession of the vessels and upon its conclusion does not return all those received, or returns them incapable of rendering the services covered by this contract.

De la sanción penal

Of penalties.

68

68

Si el contratista no presentare los buques destinados á los líneas principales de correos á las Antillas, Filipinas y Buenos Aires para ser recibidos según lo dispuesto en los arts. 22, 23 y 24, quedará árbitro el Gobierno de rescindir el contrato, con pérdida de la fianza, ó de imponer á aquél una multa de 150.000 pesetas.

Si antes del día en que deban empezar los servicios no estuvieren admitidos, por no tener las condiciones prevenidas, los buques necesarios para empezar los servicios de las Antillas y Filipinas, se impondrá al contratista una multa de 150.000 pesetas por cada uno de los buques que falten.

Si en los plazos marcados en el referido articula para la presentación de los restantes buques no los presentase el contratisto, ó no fueren admitidos por no merecerlo, incurrirá éste en la multa de pesetas 150.000 per cada uno de los que falten para completar el servicio. Si el contratista no estuviera en disposición de comenzar en las fechas señaladas los servicios de Buenos Aires, Fernando Póo y Marruecos, la multa será, respecto del primero, de 100.000 pesetas; respecto del segundo, de 800.000, y respecto del tercero, de 600.000.

Should the contractor not present for acceptance the vessels intended for the principal mail lines to the West Indies, Philippines, and Buenos Aires, according to the provisions of Articles 22, 23 and 24, the Government shall be empowered to annul the contract, with forfeiture of the bond, or to impose a fine of 250,000 *pesetas*.

If prior to the day on which the service is to be entered upon the necessary vessels to begin the West Indian and Philippine service are not accepted by reason of not meeting the prescribed requirements, a fine of 150,000 *pesetas* will be imposed upon the contractor for each of the vessels lacking.

If within the terms designated in the article relating to the presentation of the remaining vessels the contractor does not produce them, or they are not accepted because they are not entitled to it, the contractor shall incur a fine of 150,000 *pesetas* for each vessel lacking to complete the service. Should the contractor not be in a position to commence on the designated dates the Buenos Aires, Fernando Po and Morocco service, the fine shall be in the first instance 100,000 *pesetas*, in the second 800,000, and in the third 600,000.

69

69

Si el contratista dejare de hacer alguna de los expediciones á que queda obligado, incurrirá en la multa de 150,000 pesetas en las líneas de Cuba y Filipinas, y de 100.000 en la línea de Buenos Aires, 80.000 en la de Fernando Póo y 60,000 en la de Marruecos.

Cuando dejare de realizar una expedición servida por combinación por haberse

Should the contractor fail to make any of the trips to which he is bound he shall incur a fine of 150,000 *pesetas* on the Cuban and Philippine lines, 100,000 on the Buenos Aires line, 80,000 on the Fernando Po, and 60,000 on the Morocco.

When he fails to make a trip having a connection, owing to the impossibility of

hecho ésta imposible, dejará prescribir la subvención correspondiente al recorrido no servido. Si la combinación resultare imposible para los viajes sucesivos, el contratista estará además obligado á devolver la mitad de las subvenciones que por ella hubiere recibido.

70

Si no tuviere dispuestos los buques en la forma que ordena el artículo 13, pagará una multa de 5.000 pesetas.

71

Si la salida de los buques se retardase por culpa del contratista, pagará éste una multa de 10.000 pesetas, y se amentarán 5.000 por cada día empezado sin que salga el buque, hasta el quinto día, en que se declarará no hecha la expedición, é incurso el contratista en la multa de 150.000 pesetas.

Llegado el caso de aplicar esta multa por falta de expedición, no se exigirán las multas parciales que quedan establecidas.

Estas cantidades quedan reducidas, respectivamente, á 5.000, 2.500 y 100.000 para Buenos Aires; á 4.000, 2.000 y 80.000 para Fernando Póo; á 3.000, 1.500 y 60.000 par Marruecos.

72

En el esso de que la marcha media anual señalada por este contrato á los vapores en cada una de las líneas no se hubiere completado en todas ó en alguna de éstas, se hará al concesionario un descuento de la subvención asignada á la línea respectiva, conforme á las bases siguientes:

Si la marcha realizada por término medio durante el año fuese inferior al mínimum obligatorio en un cuarto de milla por hora, el descuento será de 1,25 por 100 del total de la subvención correspondiente al recorrido anual de la línea. La retención será de 2,50 por 100 si la diferencia fuere de media milla; de 3,75 por 100 si de tres cuartos de milla, y, en fin, de un 5 por 100 por cada milla completa.

Estos descuentos se aumentarán en un 25 por 100 para las líneas de las Antillas y Filipinas.

Siempre que la diferencia exceda de

making the latter, he shall allow the subsidy corresponding to the trip not made to lapse. Should the connection result impossible in subsequent trips, the contractor is moreover bound to return one-half of the subventions he may have received therefor.

70

Should he not have the vessels ready in the manner required by Article 13, he shall pay a fine of 5,000 *pesetas*.

71

Should the departure of vessels be delayed through fault of the contractor he shall pay a fine of 10,000 *pesetas*, and 5,000 shall be added for every day begun without the vessel sailing, up to the fifth day, when the trip will be declared off, and the contractor liable to the fine of 150,000 *pesetas*.

Should the case arise of imposing this fine for failure to make the trip, the partial fines mentioned shall not be exacted.

These amounts are reduced respectively to 5,000, 2,500 and 100,000 for Buenos Aires; 4,000, 2,000 and 80,000 for Fernando Po, and 3,000, 1,500 and 60,000 for Morocco.

72

In case the mean annual speed designated by this contract for the steamships on each of the lines shall not have been kept up on all of them, the concessionary shall suffer a reduction of the subsidy assigned to the respective line, upon the bases following:

If the average speed realized during the year is less than the minimum obligatory by a quarter of a mile per hour the rebate shall be 1.25 per cent. of the total subsidy corresponding to the annual run of the line. The rebate shall be 2.50 per cent. if the difference is a half mile; 3.75 per cent. if three-quarters of a mile, and, in short, 5 per cent. for each full mile.

These rebates shall be increased 25 per cent. on the West Indian and Philippine lines.

Whenever the difference shall exceed

una milla, se requerirá al concesionario para que reemplace aquel ó aquellos vapores que durante el año no hubieren alcanzado la marcha media obligatoria.

La Compañía está obligada al reemplazo de cada uno de los barcos en el término de diez y seis meses, á contar desde la fecha del requerimiento.

El importe de las retenciones será descontado por el Gobierno, de las sumas que se deban al concesionario.

Para el debido cumplimiento de las cláusulas de este artículo, se formará al final de cada año, por las dependencias del Ministerio de Marina, un estado de la duración de cada traversía en cada una de las líneas de la concesión, exceptuando las combinadas, con las deducciones procedentes por permanencia en los puertos de cada escala, y en la línea de Filipinas; las concedidas por contramonzones y suciedad de fondos.

El total por línea establecerá la velocidad media anual, y, por consiguiente, el descuento que se impondrá á la Compañía (1).

(1) Por R. O. de 5 de Octubre de 1888, se declara: *Primero.* Que las Juntas inspectoras de que trata el art. 36 de este contrato, tienen atribuciones para revisar los cuadernos de bitácora y de vapor de los buques, según expresa el artículo 38, puesto que uno de los puntos más importantes, tratándose de vapores correos y de conocer que éstos se conservan constantemente en buen estado de servicio, es comprobando que continúan sosteniendo la misma velocidad exigida para el desempeño de aquél.—*Segundo.* Que el promedia de andar en cada travesía debe deducirse en la forma marcada en el art 72 por la duración del viaje y el recorrido oficial.—*Y Tercero.* Que una vez admitido un buque bajo las condiciones marcadas en el art. 30, no procede en los reconocimientos sucesivos proponer variación alguna en su distribución y pertrechos, y sí solamente asegurarse de que todo ello se conserva en el buen estado en que se encontraba cuando fué reconocido para su admisión.

Nota.—Véase R. O. de 21 de Marzo de 1890, trasladando otra del Ministerio de Ultramar, de acuerdo con informe del Consejo de Estado en pleno, en la que se consigna que si bien las deficiencias de velocidad puedan dar lugar al reemplazo del buque que los padezca, esas deficiensias han de exceder, para el caso, de una milla en el promedio anual, y que este promedio no puede averiguarse por el resultado de uno ó varios viajez, sino por la suma de todos los de un año, en la oportunidad que determina el art. 72 del contrato.

one mile the concessionary shall be required to replace the vessel or vessels that during the year shall not have reached the obligatory mean speed.

The Company is bound to replace each of the vessels within the term of sixteen months reckoned from the date of the notice.

The amount of the rebates shall be deducted by the Government from the sums that may be due the concessionary.

For the due enforcement of the clauses of this article there shall be drawn up at the end of each year by the dependencies of the Ministry of Marine a statement of the duration of each trip on each of the subsidized lines, excepting the connecting, with the deductions growing out of stays at the ports of each route, and, on the Philippine line, the allowance for delays caused by monsoons and foul bottoms.

The total duration of trips per line shall establish the mean annual speed, and, consequently, the deductions to be imposed upon the Company (1).

(1) By R. O. of October 5, 1888, it is declared: *First.* That the inspection boards, of which Article 36 of this contract treats, have authority to inspect the log books and steam logs of the vessels, as mentioned in Article 38, since one of the most important points, when treating of mail steamers and endeavoring to discover whether they are constantly kept in a good serviceable state, is to prove that they continue maintaining the speed required for the performance of their service. *Second.* That the average speed on each trip should be discovered in the manner mentioned in Article 72 by the duration of the trip and the official run. *Third.* That a vessel once accepted under the conditions named in Article 30, it is not proper to propose in subsequent inspection any change in her arrangements and stores, but only to make sure that everything is kept in the good condition it was when she was inspected for acceptance.

Note.—See R. O. of March 21, 1890, transmitting another through the Ministry of the Colonies, pursuant to a report of the full Council of State, in which it is set forth that although speed deficiencies may give cause for replacing the vessel suffering the same, the deficiencies must exceed one mile in the yearly average, and that this average cannot be ascertained by the result of one or several voyages, but by the sum of those of one year in the manner mentioned in Article 72 of the contract.

73

Cuando hubiere transcurrido el plazo de diez y seis meses, que los arts. 28 y 72 señalan para reponer el buque perdido ó inútil, sin la presentación del que haya de sustituirle, el contratista incurrirá en la multa de 150.000 pesetas y quedará obligado á presentarle en nuevo término de seis meses, pagando, de no hacerlo, otra multa de igual cantidad.

74

Si el Capitán no recogiese la correspondencia ó cometiese alguna falta, que produjese pérdida de ella, incurrirá el contratista en la multa de 40.000 pesetas. En el caso de que por culpa ú omisión del Capitán sufra deterioro la correspondencia, pagará el contratista 15.000 pesetas.

75

Por las faltas que cometan el contratista ó sus dependientes en los servicios á que se refiere el art. 58, se exigirán á aquél multas proporciondas, á juicio del Ministerio de Ultramar.

76

Las multas señaladas en este capítulo (De la sanción penal), se impondrán gubernativamente con sólo tenerse notocia oficial de los hechos que las motivasen, y se tomarán del depósito á que se refieren los arts. 62 y 63, debiendo reintegrarlo el contratista en al plazo improrrogable de ocho días, contados desde que por la Caja de Depósitos se haga la oportuna retención. La falta de reposición del depósito se considerará motivo para la rescisión del contrato, quedando el contratista responsable de los daños y perjuicios que su falta irrogue á la Hacienda, en todo lo que éstos superen á los restos de la fianza.

77

Las multas expresadas en los artículos anteriores se entenderán sin perjuicio de la responsabilidad criminal y de las indemnizaciones de daños y perjuicios á que hubiere lugar en cada caso, y sólo dejarán de ser exigibles en el caso de fuerza mayor, acreditada en debida forma.

73

When the term of sixteen months established by Arts. 28 and 72 for the replacing of a lost or disabled vessel shall have expired without the presentation of the substitute, the contractor shall incur a fine of 150,000 *pesetas*, and shall be bound to present it within another term of six months, paying, in default thereof, a further fine in the same sum.

74

Should the Captain fail to collect the correspondence or be guilty of some fault resulting in its loss, the contractor shall incur a fine of 40,000 *pesetas*. In case the correspondence suffers any injury through the fault or omission of the Captain, the contractor shall pay 15,000 *pesetas*.

75

For failures on the part of the contractor and his employees in the performance of the services to which Art. 58 refers, the former shall pay proportionate fines, within the judgment of the Ministry of the Colonies.

76

The fines mentioned under this head (Of penalties) shall be executively imposed merely upon official notice of the acts incurring them, and they shall be taken from the deposit to which Arts. 62 and 63 refer, the contractor having to make the latter whole within the absolute term of eight days reckoned from the time when proper retention is made by the Trust Deposit. Failure to reimburse the deposit shall be considered a cause for the annulment of the contract, the contractor being still liable for any damages his failure may entail upon the Treasury, in whatever sum they may exceed the remainder of the bond.

77

The fines mentioned in the foregoing articles shall be understood to be without prejudice to criminal liability and indemnities in the way of damages which may be proper in each case, and they shall only fail to be exacted in the case of *force majeure* proven in due form.

78

En el casa de que por tercera vez, en un año, incurra el contratista en cualquiera de las faltas á que se refieren el párrafo 1.° del art. 69, y los 70, 71 y 73 en relación con el 72, sancionadas con multa superior á 40.000 pesetas, podrá el Gobierno, dentro del mismo año, rescindir el contrato en cuanto á la línea a la cual las tres faltas se refieren.

Disposiciones adicionales.

1.ª Dentro de los dos primeros años, á contar desde el dia en que hubieren empezado á prestar los servicios de Buenos Aires, Marruecos y Fernando Póo, el Gobierno y el concesionario tendrán el derecho de renuncialos.

Si lo ejercitaren, el servicio á que la renuncia se refiere concluirá al vencimiento de los dos años, á menos que las partes contratantes se pusieran de acuerdo acerca de las condiciones en que habría de desempñarse en lo sucesivo.

2.ª El concesionario se obliga á no hacer el comercio de cabotaje entre puertos de la Península, ni el de carga desde los puertos de Europa á España y viceversa en la navegación subvencionada en virtud de este contrato.

3.ª No obstante lo fijado en la primera disposición transitoria, el Gobierno de S. M. podrá establecer, de acuerdo con la República Argentina, una expedición mensual subvencionada por ambas partes.

Ley de 26 de Junio de 1887.

78

Should the contractor, for the third time in one year, be guilty of any of the failures to which paragraph 1, of Art. 69, and Arts. 70, 71 and 73 in connection with 72 refer, punishable by a fine exceeding 40,000 *pesetas*, the Government may, within the same year, annul the contract as far as it relates to the line to which the three failures refer.

Additional provisions.

1. Within the first two years, reckoned from the day on which the Buenos Aires, Morocco and Fernando Po services shall have begun, the Government and the concessionary shall have the right to relinquish them.

Should they exercise this right, the service to which the relinquishment relates shall end at the expiration of the two years, unless the contracting parties should agree upon the conditions under which it shall be contracted in the future.

2. The concessionary binds himself to not carry on a coastwise trade between the ports of the Peninsula or a freight service from ports of Europe to Spain and *vice versa*, by means of the lines subventioned by virtue of this contract.

3. Notwithstanding what is established in the first transitory provision, the Government of H. M. may establish by agreement with the Argentine Republic a monthly service subsidized by both parties.

Law of June 26, 1887.